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I. General information

Introduction (Historical background)

1. The history of Italy as a constitutional State guaranteeing its citizens basic and fundamental rights, starts with the first Constitution, the so-called *Statuto Albertino* (Arts. 1-84), adopted in 1848 by King Carlo Alberto of Savoy.

2. From 1870 until 1922, Italy was a constitutional monarchy (Article 2, *Statuto Albertino*) with a Parliament elected under limited suffrage (women will enjoy the right to vote only in 1946). This form of government was based on power-sharing between the King and the Parliament. In particular, while the Chamber of Deputies was representative of the will of the people, the Senate's members were chosen and appointed by the King.

3. Inspired by the 1830 French Constitution and the 1831 Belgian Constitution, the Italian *Statuto* provided for some fundamental civil and political rights (Articles 24 through 32); and had the following features: 1. It was written; 2. granted by the King; and 3. "flexible".

4. This first form of Constitution envisaged *inter alia*: the principle of non-discrimination, the right to be legally judged, the freedom of conscience, the freedom of the press, the freedom of assembly, the security of the individual and of property and the prohibition of unlawful persecution and arrest. The *Statuto* also emphasized the primacy of the Roman Catholic Religion (Article 1). Nevertheless, freedoms could be constrained by ordinary Acts (*flexible* Constitution), and, in particular, no State intervention was foreseen to ensure social rights.

5. The institutional system[1] envisaged a Parliament composed of two Chambers (Article 3): the Senate (Articles 33 through 38), to which members were appointed by the King; and the Chamber of Deputies (Articles 39 through 47), to which Parliamentarians were elected by the Italians – at that time, the right to vote was not granted either to women or men with low income.

6. Parliamentary government came to an end in the early 1920s when the fascist dictatorship was established by the then head of Government, Benito Mussolini. After the fall of Fascism, at the end of WWII a political process began to draft a new Constitution, based on the respect for human rights.[2]

[1] As for the role and powers of the King (Articles 3 through 23), he was the Chief of Government and enjoyed the right of selecting members of the Cabinet of Ministers (Articles 65 through 67) and of appointing judges, as well (Articles 68 through 73). Moreover, he could exercise his power of veto on the bills: laws could not enter into force without his approval. The rationale behind his right to veto was that the King had decided the content of this *Statuto* and he was the only one in a position to grant it.

[2] Under the 1947 peace treaty, adjustments were made in Italy's frontiers: the eastern border area was transferred to Yugoslavia, and the area around the city of Trieste was designated a free territory. In 1954, the free territory, which had remained under the administration of the US-UK forces (Zone A, including the city of Trieste) and Yugoslav forces (Zone B), was divided between Italy and Yugoslavia. The Italian-Yugoslav Treaty of Osimo, ratified in 1977 made this arrangement permanent. Under the 1947 peace treaty, Italy also gave up its overseas territories and certain Mediterranean islands.

The way towards the current Italian Constitution

7. In 1944, Legislative Decree No. 151 introduced a transitional legal system. Pursuant to Article 1, it stipulated: "as soon as the national territory is shaken off the yoke of the war, the institutional bodies, including a Constituent Assembly, in charge of drafting a new Constitution, will be elected by citizens through universal suffrage". Subsequently, this Decree was replaced by Decree No. 98, stipulating that people would enjoy the right of choosing the form of State between republic and monarchy, through a referendum.

8. On 2 June 1946, the referendum took place, jointly with the election of members of the Constituent Assembly (*Assemblea Costituente*). With 12,717,923 votes in favour, the Italians opted for the Republic.

9. The first session of the Constituent Assembly, including 21 women parliamentarians,[3] took place on 25 June 1946.

- In order to draw up and present a draft Constitution, within three months, the Constituent Assembly established, on 15 July 1946, a "Commission for the Constitution (also known as the 75-member Commission)", made up of 75 members, who were chosen according to the criterion of the political proportionality.
- The above Commission concluded its work, on January 12, 1947. Shortly after, the draft Constitution underwent the plenary debate (from March 4, 1947 onwards), and was finally adopted, on December 22, 1947. The new Constitution entered into force, on January 1, 1948.[4]

The 1948 Italian Constitution

10. The Italian Constitution includes all basic and fundamental rights. It consists of 139 Articles and XVIII transitory and permanent provisions; and is made up of three Parts: "The Fundamental Principles" section (Articles 1 through 12, which includes the principle of formal and substantial equality, under Article 3); Part First (Articles 13 through 54, entitled "Rights and Duties of the Citizens") is mainly devoted to basic rights and freedoms; and Part Second (entitled "Organization of the Republic", Articles 55 through 139) is mainly devoted to institutional and organizational aspects.[5]

11. With regard to the Roman Catholic Church in Italy, as long as its temporal powers ended in 1870, its status has been determined by a series of agreements with the Italian Government. Under the Lateran Pacts of 1929, later confirmed by the present Constitution, the state of Vatican City is recognized by Italy as an independent, sovereign entity. While preserving that recognition, in the year 1984 Italy and the Holy See updated several provisions of the 1929 Accords – by means of that it was also decided the end of Roman Catholicism as Italy's formal state religion.

12. Since June 2, 1946, a democratic Republic has replaced the monarchy. The new Constitution is the expression of popular sovereignty (Article 1 of the 1948 Basic Law); Mr. A. De Gasperi was the first Head of Government.

13. Therefore, the Basic Law (1948) is a response to historical development; and the Italian Republic, founded in 1946, guarantees individual freedoms and defensive rights

[3] https://www.senato.it/application/xmanager/projects/leg17/file/repository/relazioni/biblioteca/emeroteca/Donnedellacostituente.pdf

[4] The Universal Declaration of Human Rights was adopted a few months later

[5] Various have been the attempts made to change the so-called « perfect Bicameralism », being in force in Italy, today. See information about *Italicum (See Footnote No. 16 below)*.

against the State's powers through *inter alia*: the exercise of the right to address petition (Article 50); the possibility of presenting draft legislation (Articles 70(1) and 71(2)); the specific role, among others, of the Constitutional Court (Article 134 et ff.); and the right to call for referendum.[6]

14. The Constitution envisages the following forms of referendum: the referendum to repeal laws and acts having the force of law (Article 75); the referendum on constitutional law and constitutional amendments (Article 138); the referendum concerning a merger between existing Regions or the creation of new regions (Article 132 (1)); the referendum on the transition of Provinces or Municipalities from one Region to another (Article 132 (2)). Other forms of referendum, at the municipal and provincial levels, are then provided by sub-constitutional sources.

15. Moreover, the current Constitution can be modified only through a special "aggravated" procedure, mentioned in Article 138, entitled "Procedure for constitutional amendments": "Law amending the constitution and other constitutional acts are adopted by each of the two chambers twice within no less than three months and need the approval of a majority of the members of each chamber in the second voting. Such laws are afterwards submitted to popular referendum when, within three months of their publication, a request is made by one fifth of the members of either chamber, by 500,000 electors, or by five regional councils. The law submitted to referendum is not promulgated if it does not receive the majority of valid votes. No referendum may be held if the law has been approved by each Chamber, in the second vote, with a majority of two thirds of its members."

16. The Italian legal system aims at ensuring an effective framework of guarantees, to fully and extensively protect the fundamental rights of the individual. Accordingly, no arbitrary conduct against fundamental freedoms is allowed, as clearly reflected in Article 27 of the Constitution. This provision, devoted to the individual responsibility, envisaged at paragraph 4: "Death penalty is prohibited except for military law in time of war". Although the latter was never applied, by Constitutional Act No. 1/2007 the above Article 27 was amended, to expressly prohibit, under whatsoever circumstances, the application of the death penalty. Therefore, Article 27, paragraph 4, now reads: "The death penalty is prohibited" – implying under any circumstances (See Official Bulletin No. 236, dated October 10, 2007).

17. Internationally, over the years Italy has been at the forefront of the campaign on the death penalty moratorium.[7]

[6] Article 75 of the Italian Constitution sets forth as follows: "A general referendum may be held to repeal, in whole or in part, a law or a measure having the force of law, when so requested by five hundred thousand voters or five Regional Councils. No referendum may be held on a law regulating taxes, the budget, amnesty or pardon, or a law ratifying an international treaty. Any citizen entitled to vote for the Chamber of deputies has the right to vote in a referendum. The referendum shall be considered as conducted if the majority of those eligible has voted and a majority of valid votes has been achieved."

[7] Historically, mention has to be made of Cesare Beccaria's work, *On Crimes and Punishments* (1764), by which he describes the connection between the social contract and the right to life. Beccaria argues particularly that the death penalty has bad effects on society by reducing sensitivity to human suffering. The use of capital punishment is thus expressly criticised. In his view, capital punishment is not necessary to deter, on the other hand, long-term life imprisonment is a more powerful deterrent (provided that execution is transient). Therefore, he concludes by urging rulers to adopt his stance against capital punishment, besides predicting that in doing so, this will provide them with lasting fame – as peacemakers.

Recent political development

18. There have been several government changes since 1945. The Christian Democratic party played a central role during much of the post-war, within the political and governmental framework until 1994. From 1992 to 1997, Italy faced significant challenges. In the 1993 referenda, people approved substantial changes, including moving from a proportional to a majoritarian electoral system and the reduction by abolishment of Ministries. New alignments of powers emerged in the March 1994 national elections. In 1994, Mr. S. Berlusconi took up his mandate as President of the Council of Ministers and led the Government until early 1995, when a technical Government led by Mr. L. Dini took office. The latter, however, fell in early 1996.[8]

19. Afterwards, a series of centre-left coalitions dominated Italy's political landscape (1996-2001). This was subsequently characterised by a centre-right wing party coalition, save the period between 2006-2008, when Mr. Prof. R. Prodi from the centre-left wing party headed the Government.

- Afterwards, at the political level, this issue was considered by the Grand Duchy of Tuscany, being, in 1786, the first State in the world to overcome and set aside both torture and capital punishment. Nevertheless with the establishment of the Kingdom of Italy in 1860, legislation was divided since the death penalty institute was in force in all the regions, except for Tuscany. In 1889, the death penalty was definitively abolished with the quasi-unanimity by both the Houses of Parliament, upon indication by the then Minister of Justice, Hon. Zanardelli. His proposal – and the related result – was reflected in the then criminal code, the so-called Zanardelli Code. Yet, death penalty remained in the military code.
- Later on, the death penalty was reintroduced in the ordinary penal code in 1926, and the new penal code, the so-called Rocco Code, in force since July 1st, 1931, added more crimes to the list of those punishable with death penalty, besides reintroducing capital punishment for some common crimes, too. Article 21 of the then Italian penal code – as subsequently abolished – stated that Death penalty, to be carried out by shooting, has to take place within a penitentiary institute or in any other place suggested by the Ministry of Justice. The execution is not public, unless the Ministry of Justice determines otherwise. The last execution in Italy took place on March 4, 1947.
- The Italian Constitution, entered into force since January 1948, completely abolished the death penalty for all common military and civil crimes during peacetime. This measure was implemented by Legislative Decree No. 21/48. However, the death penalty was still in force in Italy under the military penal code, but no execution occurred.
- By Act No. 589/94, it was abolished tout court, and replaced with the maximum penalty (lifetime detention penalty).

Over the XX century, through a relentlessly process, the right to life has acquired an increasing acknowledgment at both the theoretical and substantial law levels. Both the Council of Europe and the EU Parliament have adopted a clear position on the death penalty (Article 2 of the European Convention on Human Rights, and Recommendation No. 10044/1994, respectively). Along these lines, Article 27 of the Italian Constitution stress and confirms that the utmost importance is ensured to the right to life with no exceptions. Consistently, Italy ratified, on March 3rd, 2009, Protocol No. 13 to the European Convention on Human Rights. Moreover, the domestic legislation on transplants (Act No. 91/1999) prohibits the importation of organs or tissues from States where the law allows the sale and the forced withdrawal from those citizens who are sentenced to death penalty.

[8] In April 1996, elections led to the victory of a centre-left coalition (the then Olive Tree) under the leadership of Mr. R. Prodi, who became President of the Council of Ministers. In October 1998, he lost a vote of confidence, and a new Government was formed by Democrats of the Left (the then PDS) under the leadership of Mr. D. Alema. In April 2000, following Regional elections, Mr. D. Alema resigned (and was replaced by Amato-led Government). Shortly after that, national elections took place on May 13, 2001, and Mr. S. Berlusconi returned to power at the head of a centre-right five-party coalition, composed of his own party, named Forza Italia, the National Alliance party, the Northern League, the Christian Democratic Centre, and the United Christian Democrats.

20. In 2011, a new technical Government led by Sen. M. Monti was sworn in. Subsequently, it was followed by a new centre-left Government, led by Hon. E. Letta (up to February 14, 2014).

21. Following general elections held in February 2013, the XVII Legislature has begun, on March 15, 2013; and the Government is now led by a centre-left political coalition.

22. Since February 22, 2014, Mr. Matteo Renzi is the President of the Council of Ministers (Mr. Renzi is also the current Secretary of the Democratic Party).

23. Moreover, since February 3, 2015, Mr. Sergio Mattarella is the XII Italian Head of State.

A. Demographic, economic, social and cultural characteristics

Geography and climate

24. The Republic of Italy is a State in southern Europe with a peninsular part on the Mediterranean Sea and borders on France, Switzerland, Austria and Slovenia in the northern part. With an area of 301,230 sq. km, it stretches from the Alps to the Mediterranean Sea in the South; and Lampedusa Island is the furthest border in the South.

25. The lowest point is reached in the Mediterranean sea with 0 m., while the highest mountain of Italy is Mont Blanc, at 4,748 m. which is located in the Alps (NW).

26. Italy's position in the Mediterranean area is decisive for its climate. Progressing from North through South, a gradual transition from lower temperatures to mild Mediterranean climate.

27. Geographically, it can be divided in three areas: (i) North, Centre and South, respectively composed by the following regions: Piedmont; Aosta Valley; Liguria; Lombardy; Trentino Alto Adige; Friuli Venezia Giulia; Veneto; and Emilia-Romagna; (ii) Tuscany, Latium, Umbria, Marche; (iii) Abruzzi, Molise, Campania, Basilicata, Apulia, Calabria, Sicily, and Sardinia (Article 114 et ff. of the Basic Law).

28. The national territory is made up of twenty different administrative Regions (Article 131). More specifically, in accordance with Article 5 of the Italian Constitution (stipulating "The Republic is one and indivisible. It recognizes and promotes local autonomies, and implements the fullest measure of administrative decentralization in those services, which depend on the State. The Republic adapts the principles and methods of its legislation to the requirements of autonomy and decentralization"), Italy consists of: (i) 20 Regions,[9] of which 15 with ordinary statute; and five more with special statute; (ii) 110 Provinces;[10] and (iii) 8,000 Municipalities (as of 2016).

29. Following Act No. 56/2014, the Provinces of the Italian Regions with ordinary statute have been changed in second level's administrative bodies. At the same time, this Act envisages the transformation of ten provinces in metropolitan cities. Aimed at simplification, this Act has specifically abolished the Executive of the Provinces, the competences of which have been transferred to the provincial Councils – whose size, meanwhile, has been reduced. Plus, a new organ has been envisaged, namely the Assembly

[9] Article 131 of the Italian Constitution: "The following Regions shall be established: Piedmont, Valle d'Aosta, Lombardy, Trentino-Alto Adige, Veneto, Friuli-Venezia Giulia, Liguria, Emilia-Romagna, Tuscany, Umbria, The Marches, Latium, Abruzzi, Molise, Campania, Apulia, Basilicata, Calabria, Sicily, Sardinia"

[10] As for development relating to Provinces, please refer to information under paragraph 24

of the Mayors that is in charge of deliberating: the budget; and possible statutory amendments. Therefore, at the provincial level, the organs are as follows: President; provincial Council; and the Assembly of the Mayors.

Demography

30. As of January 1, 2016, Italy counts 60,656,000 inhabitants, according to ISTAT (standing for the National Office of Statistics), with a population density at 201 inhabitants per square kilometer. However, the distribution of the population remains uneven. The most densely populated areas are the metropolitan areas of Rome and Naples and the Po Valley area, while various Regions remain barely populated.

31. Population as % of total EU population: 12% (2014); GDP: € 1.616 trillion (2014).[11]

32. The population of Italy almost doubled during the twentieth century, but the pattern of growth was extremely uneven due to large-scale internal migration from the rural South to the industrial cities of the North: a phenomenon occurred following the so-called Economic Miracle, dating back to the 1950-60s. Afterwards, subsequent centuries of emigration, since the late 1980s Italy has been experiencing large-scale immigration.

33. High fertility and birth rates have been registered until the 1970s, after which the decline has started and has led to a significant rise in the population aging.

34. At the end of the first decade of the 21st century, one in five Italians was over 65 years old. The total fertility rate has also climbed to 1.41 in 2008. However, as a result of the immigration flows of the last two decades, in recent years Italy has experienced a significant growth in birth rates.

35. Since the 1984 Lateran Treaty, Italy has no official religion. However, the majority of the population identifies itself as Roman Catholic. In addition to the main Christian denomination that in Italy remains Roman Catholicism, other confessions include: Muslims, Protestants, Eastern Orthodox and other Christian churches. Immigration at the beginning of the new century has also increased the size of other religious communities, such as Baptists and Anglicans.

36. The protection of freedom of religion, especially with regard to individuals, associations and religious organisations, is guaranteed in accordance with Article 8 of the Italian Constitution (concerning the establishment of effective relationships between State and religious confessions). Specifically, Article 8 sets forth as follows: "All religious Denominations are equally free before the law. Denominations other than Roman Catholicism have the right to self-organization according to their own statutes, provided that these do not conflict with Italian law. Their relations with the State are regulated by law on the basis of agreements (Intese) to be signed with their respective representatives".

37. Religious Denom nations without Agreement (Intesa) enjoy the same treatments as others. However, negotiations aimed at signing an Intesa are initiated only with those Denominations with legal personality, in accordance with Act No. 1159/1929 and upon positive opinion by the State Council.

38. Besides the above historic Accord between the Roman Catholic Church and the Government, Article 19 of the Italian Constitution sets forth the right to freedom of religion and belief.

39. This is even more true when considering the increasing number of migrants living in Italy. In this regard, according to estimates[12] (for the biennium, 2011-2012) relating to the

[11] http://europa.eu/about-eu/countries/member-countries/italy/index_en.htm

religion of foreign citizens residing in Italy, the majority of foreign citizens, aged 6 and over, declared to be Christians (corresponding to 56,4%), of whom 27% orthodox; 25,1% Roman Catholic; and 2,7% protestant. Approximately, ¼ are Muslims (26,3%), while Buddhists amount to approx. 3%; and 7,1% declares to be atheist.[12]

40. The above-mentioned more recent immigration flows have increased the number of non-Christian religions, including, among others, Muslims, Buddhists, Hindus, and Sikhs.[13]

41. Historically, Judaism is present in Italy since Roman times.

42. About 68% of Italian population is classified as urban (2010); the annual rate of urbanization change is 0.5% (2010-15 est.).

43. As a result of the profound economic and social changes induced by postwar industrialization, including low birth rates, an ageing population and thus a shrinking workforce, during the 1980s Italy began to attract rising flows of foreign immigrants.

44. The present-day figure of about 5 million foreign residents, making up some 9% of the total population, includes 97,000 children born in Italy from foreign nationals (19% of total births in Italy) in 2014, but excludes foreign nationals who have subsequently acquired Italian nationality.

45. Overall, at the end of the 2000's, the foreign born population of Italy was from: Europe (54%), Africa (22%), Asia (16%), the Americas (8%) and Oceania (0,06%). The distribution of immigrants is largely uneven in Italy: 84.9% of immigrants live in the northern and central parts of the country (the most economically developed areas), while only 15.1% live in the southern half of the peninsula.

46. For data concerning "Territory, Environment, Population, Health, Culture, Education, Labor market, Justice, Living conditions, Economy, Prices, Foreign trade, Industry and services, Agriculture, and Tourism", please kindly refer to the yearly Publications in English, annexed herewith, from the National Office of Statistics (ISTAT), on "Italy in Figures", for the years 2015, 2014, 2013 (Annexes No. 1.1, 1.2, 1.3, respectively):[14]

http://www.istat.it/en/files/2015/09/ItalyinFigures2015.pdf;
http://www.istat.it/en/files/2015/03/Italy-in-figures-2014-online.pdf;
http://www.istat.it/en/files/2011/06/Italy-in-figures-2013.pdf.

47. With regard to political-related data, from the above-mentioned last general elections, held in late February 2013:

48. Italians with the right to vote were 50,449,979, of whom 26,088,170 women and 24,361,809 men. The number of voters, according to the Interior Ministry data, for the Chamber of Deputies, was equal to 75,19% of voters eligible to vote – about 5% less compared to the Italian general election held in 2008 (80,50%). Similar results applied to the Senate, with a turnout of 75,11% (against 80,46% of the previous elections).

[12] In accordance with legislation on data protection and privacy, disaggregated data on religions and ethnicity cannot be collected.

[13] http://www.istat.it/it/files/2015/10/Religione-stranieri.pdf?title=Religione+tra+i+cittadini+stranieri+-+02%2Fott%2F2015+-+Testo+integrale.pdf

[14] According to the Italian legislation on data protection and privacy, disaggregated data on ethnic and religious grounds cannot be collected.

[15] Annex No. 3 includes information on violence against women (VAW). In mid-2015, ISTAT published the second survey on violence against women (http://www.istat.it/en/files/2015/09/EN_Violence_women.pdf?title=Violence+against+women+-+23+Sep+2015+-+Full+text.pdf).

49. For the Chamber of Deputies, there were: 395,286 blank voting ballot sheets (1.12% of total); 871,780 spoiled voting ballot sheets (2.47% of total); and 1,951 were those challenged and not assigned. The Senate blank votes were 369,301 (1.16% of total); the spoiled votes were 762,669 (2.40% of total); and 1,835 were those challenged and not assigned.

50. As for the distribution of the seats, mention has to be made of the following: (i) in the Senate – Centre-left, including Democratic Party (105); Left, Ecology and Freedom (7); and Crocetta List "The Megaphone" (1), gained 113 seats. Centre-right, including Freedoms' People (98), Northern League (17); and Great South (1), gained 116 seats. The Five Stars Movement-Beppe Grillo gained 5 seats. Mario Monti List gained 18 seats. (ii) in the Chamber of Deputies – Centre-left, including Democratic Party (292); Left, Economy and Freedom (37); Democratic Centre (6); and SVP (5). Centre-right, including Freedom's People (97); Northern League (18); and Italian Brothers (9), gained 124 seats. The Five Stars Movement-Beppe Grillo gained 108 seats. Mario Monti-List gained 45 seats. Civic Choice gained 37 seats; and Centre-Union got 8 seats.

51. Compared to the past, the new Legislature is of relevance for two elements: notably, the overall percentage of women, raised to 31% (32% at the Chamber, and 30% in the Senate); and the lowering of the overall average age equaling to 48 years (45 in the Chamber, and 53 in the Senate).

52. Political elections-2013 were regulated by Act No. 270/2005,[16] which envisages: the so-called corrected proportional system; in coalition; with majority premium; and the

[16] On the margins, following Constitutional Court judgment No. 1/2014, eliminating various unconstitutional elements that were part of the above law, the new Italian Electoral law-2015 (*Italicum*), Act No. 52/2015, was adopted. It envisages a 3% election threshold, a two-round system, to be based upon a proportional representation of party-related lists, to be eventually corrected by means of a bonus (the so-called majority bonus). It also envisages the establishment of 100 constituencies across the country where candidates must run, in addition to open list of candidates save the single candidate at the top of this list, who can be chosen by each party and will be the first one to be elected. This Act will enter into force on July 1, 2016, and will regulate the election to the Chamber of Deputies, only.

The *Italicum* system regulates the attribution of 617 of the 630 seats of the Chamber of Deputies, excluding the 12 seats attributed to representatives of the Italians living abroad, and one seat for the Aosta Valley Region. It also envisages the so-called *majority assuring*, to be assigned to the winning party, possibly after a second electoral round.

If no party has been able to pass the 40% threshold, a second round takes place two weeks after the first one; this time electors receive a ballot where they are allowed to choose between the two parties that received most votes. The party that will win the second round will be the assignee of 340 seats, and the remaining 277 seats are allocated to the other parties in a proportional fashion, according to the results of the first round.

The proportional allocation of seats entails that each party receives a certain number of seats depending on its national result from the 100 constituencies, starting from the head of list and then according to the numbers of votes received.

- From each constituencies, the range of deputies to be elected varies between 3 and 9. As above reported, the parties prepare the list of candidates and the head of the candidates list candidates runs in up to 10 constituencies, while other candidates are limited to a single constituency. In each Region, the head of lists of either sex for the same party should not exceed 60% of the total; additionally, candidates in all lists must be in a sequence to be alternated by gender.
- An amendment, known as "Erasmus amendment", makes sure Italian students experiencing abroad the Erasmus program can vote.

As for the Senate it is expected to be composed by 100 senators only and to become a body representing regions, with specific reduced powers. Last, the overall reform of Part II of the Constitution will be subjected to a constitutional Referendum, envisaged for around October 2016.

possibility to vote for more parliamentarians at extended constituencies, without possibility to express a preference. Different geographical areas are provided for the allocation of the majority premium: the whole country (except for Aosta) for the Chamber of Deputies; the single constituency, coinciding with the territory of a region, for the Senate of the Republic (except for Valle d'Aosta, Molise and Trentino-Alto Adige):

(a) For the Chamber of Deputies, the above Act provides that the list or the coalition of lists obtaining most votes – but not obtaining the 340 seats – is the assignee of a further share of seats on top of those already obtained (in order to reach that number). The twelve seats allocated by the Overseas constituencies and the seat assigned to Valle d'Aosta are attributed according to different rules; the votes are not calculated for the determination of the list or the lists' coalition;

(b) For the Senate, the law provides that the list or lists' coalition obtaining most votes in the region – but that does not achieve the 55% of seats to be assigned – is the assignee of a further share of seats, so as to achieve this number. The 6 seats allocated by the Overseas constituencies and the seat assigned to Valle d'Aosta, the two seats allocated by the Molise and the seven seats allocated by the Trentino Alto-Adige are attributed according to different rules.

53. The law sets forth an obligation for each political force to submit its symbol, to deposit its program and to indicate the head of that list. It also provides for the possibility of coalitions. The program and the head of the political force, in case of coalition, have to be the same. S/He technically is not a candidate for the Presidency of the Council of Ministers, since the appointment to that position is entrusted to the President of the Republic (Head of State). For election purposes, the Italian national territory was divided, for the Chamber of Deputies in 28 multi-member constituencies, and for the Senate, in 21 multi-member constituencies.

54. With Legislative Decree No. 190/2012, ineligibility criteria were introduced with regard to different categories of intentional crimes, especially when the convicted must serve detention penalties of over 2/4 years.

55. In accordance with Article 49 of the Constitution ("Any citizen has the right to freely establish parties to contribute to determining national policies through democratic processes"), political parties are free associations of citizens. After the 2013 elections, the political pattern appears to be more proportionally inspired. The main political lists are as follows:

(a) Centre-Left wing Coalition entitled "Italia Bene Comune (Italy as a Common Good)", including *Partito Democratico* (Democratic Party), *Sinistra, Ecologia e Libertà* (Left, Ecology and Freedom Party), *Centro Democratico* (Democratic Centre), Lista Crocetta – *Il Megafono* (Crocetta List "The Megaphone"), *I Moderati* (The Moderates), *il Partito Socialista Italiano* (The Italian Socialist Party), *SVP Sudtiroler Volkspartei, Partito Autonomista Trentino Tirolese* (Autonomous Party from Tyrolean Trentino), *Il Sud-Tirolo Verde* (The South-Tirol Green), and *Autonomia, Libertà e Democrazia per la Val d'Aosta* (Autonomie Liberté Participation Ecologie).

(b) Coalizione di Centro-Destra (Centre-right Coalition), including *Popolo delle Libertà* (Freedoms' People),[17] *Lega Nord* (Northern League), *Fratelli d'Italia* (Italian Brothers), *Centro-Destra Nazionale* (National Right-Centre Wing), *Lista, Lavoro e Libertà-3L* (List, Labour and Freedom – the 3-L List), *La Destra* (The Right Wing), *I Pensionati*

[17] On November 16, 2013, the Freedoms' People approved its self-suspension in order to re-launch *Forza Italia* party, of which the "New Centre-Right (NCD)" party, led by Mr. A. Alfano is not a member any longer. This party decided to support the then E. Letta-led Government.

(The Retired), *Il Grande Sud* (Great South), *I Moderati in Rivoluzione* (Moderates under Revolution), *Intesa Popolare* (People Agreement), *Il Movimento per le Autonomie* (Movement for the Autonomies), *Cantiere Popolare* (People Construction Yard), and *Liberi per un'Italia Equa e Basta Tasse* (Free for Equality in Italy and Taxes Stop).

(c) Il Movimento Cinque Stelle (The Five Stars Movement).

(d) Con Monti per l'Italia (With Monti for Italy – the Centre-wing Coalition), including *Scelta Civica* (Civic Choice); *Unione di Centro* (Centre Union); *Futuro e Libertà per l'Italia* (Future and Freedom for Italy); and Il Movimento Associativo Italiani all'Estero (Associative Movement of the Italians living Abroad).

(e) Lista Rivoluzione Civile (Civil Revolution List), including *Italia dei Valori* (Italy of Values), *Rifondazione Comunista* (Communist Re-foundation), *I Verdi* (The Greens), *I Comunisti Italiani* (Italian Communists), *Azione Civile* (Civil Action), *La Rete-2018* (The Network-2018), *Nuovo Partito d'Azione* (New Action Party), and *Il Movimento Arancione* (The Orange Movement).

56. Until 1992, the citizenship – and thus the right to vote – could be obtained after five years of continuous residence in the State. By Act No. 91/1992, this requirement has been increased to 10 years.

57. Immigrants regularly residents are admitted to the local consultative referenda in: Turin, Bologna, and Rome. The regions of Tuscany and Friuli Venezia-Giulia intend to include in their statutes provisions that provide for the right to vote to immigrants. The adult citizens of the European Union who are nationals of a Member State, may be allowed, if they so request, with regard to the vote in local elections for the Italian municipality where they reside, pursuant to Legislative Decree 12 April 1996, No. 197, implementing Directive 94/80/EEC; EU citizens may be allowed to vote in Italy; are registered in the special additional electoral lists and can participate in the consultations on the election of the Mayor and the City Council. The voter registration allows EU citizens, in addition to voting, the possibility to be elected to the Municipal Executive as councilors, except for the post of Deputy Mayor.

58. There is no exhaustive list of NGOs. More generally, Associations, committees, foundations, cooperatives and other private entities, with or without legal personality, under given requirements, benefit from specific tax breaks.

59. In order to benefit from the above regime, they have to register at the Registry of Not-For-Profit Organization of social utility, by means of a communication to the Internal Revenue Service (*Agenzia delle Entrate*).

60. This requirement is not requested for: the so-called Not-for Profit Organizations by Law ("*Onlus di diritto*"), including voluntary organizations registered at the Registry of the Regions and Autonomous Provinces (Act No. 266/1991), and those NGOs relating to Development Cooperation under Act No. 49/1987;[18] as well as for the social cooperatives registered in the "social cooperation section" at the Registry of each Prefecture (Act No. 381/1991).

[18] Act No. 49/1987 on Development Cooperation has been abolished and replaced by Act No. 125/2014, which envisages, inter alia, the establishment of the Italian Agency for Development Cooperation.

B. Constitutional, political and legal structure of the State

Constitutional development

61. From 1948 to 2013, Italy has adopted 38 laws of constitutional rank, of which 11 concerning the approval or the modification of the statutes of the so-called Regions with a special Statute (Val D'Aosta, Trentino Alto Adige, Sardinia, Sicily, Friuli Venezia Giulia). The first five laws were not approved with the proceeding mentioned below and envisaged by Art.138 of the Italian Constitution, but directly by the *Assemblea Costituente* (in 1948).

62. The latest and most recent constitutional laws are, as follows: Act No. 2/1999 on the introduction of the principle of the fair trial under Article 111 of the Constitution; Act No. 1/2000, entitled "Amendments to Article 48 of the Italian Constitution concerning the establishment of the Foreign constituency for the right to vote of the Italians residing abroad"; Act No. 1/2001, on "Amendments to Articles 56-57 concerning the number of deputies and senators representing Italians living abroad"; Act No. 3/2001, "Amending Title V of Part Second of the Constitution;"[10] Act No. 1/2002, entitled "Constitutional law for the cessation of the effects of the first and second paragraph of the transitional and final provision XIII of the Constitution"; Act No. 1/2003, "Amending Article 51 of the Constitution"; Act No. 1/2007 "Amending Article 27, with regard to the abolition of the death penalty"; and Act No. 1/2012, aimed at "Introducing the principle of balanced budget (*Pareggio di bilancio*) in the Constitution" (with effect from 2014 onwards).

63. The Basic Law of 1 January 1948 remains the Constitution of the Republic of Italy; and amendments refer to the following Articles: 48 (vote by mail); 51 (women's participation in public offices); 56, 57, 60 (composition and length of term of two Houses); 68 (indemnity and immunity of members of Parliament); 79 (amnesties and pardons); 88 (dissolution of the Houses); 96 (impeachment); 114 through 132 (the part concerning local administrations); 134 and 135 (composition and length of term of the Constitutional Court). During the Thirteenth Legislature (1996 – 2001), four amendments passed. They concerned the parliamentary representation of Italians living abroad; the devolution of (additional) responsibilities to Regions (administrative governments at the local level); the direct elections of the President of the Regions; and a more effective application of the principle of the due process of law and an effectively recognition of the right to a fair trial. In 1967, Articles 10 and 26 have been integrated by a constitutional provision that established that

[10] The Title V (Part II of the Italian Constitution) devoted to Local Authorities was amended on 18 October 2001 and 31 December 2001, respectively. It was thus established that the new Title V of the Basic Law would apply also to the five Regions with a special statute. It also provides for that the Chambers have to change their Standing Orders, so as to allow Regions' representatives and other local public bodies to take part in the proceedings of the Parliamentary Commissions for regional affairs, whenever they discuss bills that contain "fundamental principles" concerning concurrent legislative powers, as laid down in Article 117(3), or the exercise financial autonomy, as laid down in Article 119. On 7 October 2001, an extensive constitutional amendment concerning the entire Title V of the Constitution (Regions, Provinces, Municipalities) was approved through a popular referendum: 64.2% vote in favour, even though only 34% of those entitled to, did vote. 4. On 18 April 1999, 91% of voters vote in favour of the suppression of the proportional system, which applies, but only 49.6% of those entitled to vote, did it (instead of 50%+1, as required by the Constitution, in order to render a law-repealing referendum valid). The referendum was declared void. On 18 April 1993, a referendum followed by major reforms of the electoral system: On 9 June 1991, by a significant number of "yes" vote it was changed the electoral law, which passed from a proportional system to a mixed-majoritarian system. On 2 May 1974, the first referendum of the Italian constitutional history took place, and the law allowing divorce was confirmed by a majority of 59.3% of Italian electoral body. On 7 June 1970, regional decentr*a*lization becomes effective with the first regional elections.

their respective last paragraphs (which forbid the extradition of a foreigner for political offences) do not apply in case of crime of genocide.

64. During the Fourteenth Legislature (2001-2006), the Parliament approved: (i) the repealing of transitory provision XIII, which limited civil rights of male members and descendants of the House of Savoy (Italy's royal family until 1946); and (ii) a new provision aimed at favouring a more effective participation of women in public offices, particularly in politics (Articles 51, 117 (7)). More recently, under the XVI Legislature, the principle of balanced budget (*Pareggio di bilancio*) has been also introduced (Articles 81, 97, 117 and 119).

65. Three Parliamentary Commissions have been convened in 1983-85, 1992-94 and 1997-98 with the task of drawing up proposals in response to the questions on amending or supplementing the 1948 Basic Law (with specific regard to its Part II concerning the organisation of the Republic: the Parliament; the Head of State; the Government; the judiciary; regions and municipalities; Constitutional Court and constitutional revision), but they were unable to accomplish their mandates due to lack of political consensus.

66. Under the current Legislature, mention has to be made of constitutional Bill No. S. 1429, on "Provisions to overcome perfect bicameralism, reducing the number of parliamentarians, the downsizing of costs for Institutions, the elimination of the National Council for Economy and Labour, and the revision of Title V, Part II, of the Constitution", approved at first reading by the Senate (Examination is on-going and a referendum has been envisaged for October 2016).[20]

Basic principles of the Italian Constitution

67. The Basic Law determines the political framework for action and organization of the State. The fundamental elements or structural principles of the constitutional law governing the organization of the State are as follows:

- Democracy, as laid down in Article 1; the so-called *personalistic* principle, as laid down in Article 2, which guarantees the full and effective respect for human rights; the pluralist principle, within the framework of the value of democracy (Arts. 2 and 5); the importance of labour, as a central value of the Italian community (Arts. 1 and 4); the principle of solidarity (Article 2); the principle of formal and substantial equality, as laid down in Article 3 – it is the fundamental criterion to be applied by the judiciary system, as well as by the other powers; the principles of unity and territorial integrity (Article 5); and the principles of the social state and of the state based on the rule of law.

- In particular Article 3, envisaging the principles of formal and substantial equality at paragraphs 1 and 2, respectively, stipulates as follows: "(1) All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions. (2) It is the duty of the Republic to remove those obstacles of an economic or social nature, which constrain the freedom and equality of citizens, thereby impeding the full development of the human person and the effective participation of all workers in the political, economic and social organization of the country."

[20] Please refer also to Footnote No. 17 above.
[21] See Annex No. 2 (available at https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf)

Republic

68. Italy is a democratic Republic based on labour, as laid down in Article 1. The sovereignty belongs to the people who exercise it in the forms and limits of the Constitution (Article 1 (2)). The republican structural principle is characterized by the rejection of the monarchy as a form of state: this is also reinforced by Article 139, which stipulates that this form of state cannot be subjected to any constitutional review.

Italy's President (Articles 83-91 of the Italian Constitution)

69. The President is Head of State and represents the unity of the nation, as laid down in Article 87. The highest representative of the Italian Republic is the Italian President. S/He is elected for seven years, by an electoral college, consisting of both houses of Parliament, including 58 regional representatives, which convenes in joint session (Arts. 55(2), 83).

70. At the end of the presidential mandate, the former President of the Republic becomes senator for life by law – unless waiving this privilege (Article 59 (1)).

Presidential indemnity and impeachment

71. The President of the Republic may not be held responsible for exercising his/her duties, except for high treason and attempts to overthrow the Constitution. In these cases, s/he must be impeached by Parliament in joint session, by an absolute majority of its members (Article 90).

72. Procedurally, the Constitutional Court is empowered to judge (Article 134). When sitting to decide on a case of impeachment against the President, the Court consists of its three panels of judges (fifteen judges) and sixteen additional members, who are drawn by lot from a list of citizens elected by the Parliament (Article 135 (7)).

73. The current Head of State is Mr. Sergio Mattarella, who was elected in January 2015.

Presidential duties

74. The President is entrusted to guarantee and oversee the compliance with and the respect for the Italian Constitution. In addition to certain extraordinary powers in case of state of emergency or crises, his tasks under constitutional law are to represent, integrate and embody the State. The President represents the Republic of Italy at home and abroad.

75. Among his tasks, he is in a position to: exercise his power to veto; signs the Italian laws and promulgates them; nominates and dismisses the Italian President of the Council of Ministers and Italian ministers. He is also the chief of the independent body of self-governance of the Italian judiciary, entitled the Superior Council of Judiciary (acronym in Italian, CSM). Furthermore, the President may appoint as senators for life five citizens who have brought honour to the nation through their exceptional accomplishments in the social, scientific, artistic, and literary fields (Article 59(2)). He can dissolve parliament in certain special situations, as well as being able to declare the state of emergency. The President does not represent a counterbalance of the Parliament or the Executive.

Democracy (Representative democracy and means of direct democracy)

76. Provided that State authority emanates from the people and is subject to control by the people, the structural principle of democracy under the Basic Law is designed as a parliamentary democracy.

77. Democracy is a basic principle, which can be expressed through specific means by people. In fact, all citizens may address petitions to the Chambers by demanding legislative measures or presenting general needs, as laid down in Article 50.

78. Moreover, in order to effectively exercising their sovereignty, people may introduce public initiatives consisting of draft pieces of legislation drafted in Articles and supported by at least 50,000 voters (Article 71(2)); or they can exercise their powers by promoting referenda (Article 75).

79. In addition to information above provided under paragraph 13, in order to decide on total or partial repeal of a law or other acts with legal force, 500,000 voters or five regional Councils can request a popular referendum (Article 75). The referendum succeeds if a majority of those eligible have participated, and if the proposal has received a majority of the valid votes (Article 75 (4)).

80. 71 referendum questions of a national interest have been called on since June 1946, 25 of which have been approved; 17 rejected; and 28 invalidated. The latest one, on "ban on prospecting, exploration and production of hydrocarbons in sea areas within twelve miles marine" took place on April 17, 2016 (and did not reach the *quorum*). Additionally, a constitutional referendum has been envisaged with regard to the reform of Part II of the Constitution, to be eventually held in October 2016.

The political parties

81. Citizens have the right to freely form and without authorization Associations for those aims, which are not forbidden by criminal law (Article 18). They also have the right to freely associate in political parties in order to contribute by democratic methods to determine national policy (Article 49).

82. The political parties play a decisive role in shaping political will and raising people's awareness of constitutional issues. Parties, which are included in State structure, cannot be identified with the State or with the people but are independent factors of constitutional life that adopt an intermediate role in the relationship between State and citizens. The parties do not just act at the national level. In fact, they also play a vital role at the regional and local levels.

The Parliament (Articles 55-82 of the Italian Constitution)

83. The Parliament or *Parlamento* of all the people is the Italian Parliament (Article 55) currently comprising 951 representatives; and consisting of the Senate (*Senato della Repubblica*) and of the Chamber of Deputies (*Camera dei Deputati*).

84. The Chamber of Deputies is made up of 630 members, of whom twelve representatives are elected by the constituency of those Italians living abroad (Article 56 (2)). The Senate is composed of 315 members, of whom six are elected by the constituency of the Italians abroad. In addition, up to 5 life senators can be appointed by the President of the Republic. Former Presidents of the Republic are also life senators.

85. The Parliament consists of the Chamber of Deputies and the Senate (Article 55). Members of both Chambers serve for a five-years term. As a constitutional guarantee of democracy, the term of each Chamber can be extended by law and only in case of war (Article 60(2)). Every five years, the representatives to the Italian Parliament are elected by means of general, direct, free, equal and secret suffrage (Article 56). The members of the Parliament are representatives of all the people and are not bound by orders or instructions, and are only subject to their conscience. Members of the Parliament represent the nation and are free from imperative mandate (Articles 1 and 67).

86. According to parliamentary rules, the deciding principle is the principle of majority, which includes the full acceptance of a degree of protection of political minorities, e.g. the right of minorities to be heard in Parliament, the possibility of political opposition and the change of power, the so-called mixed groups of parliamentarians, and so forth.

Electoral System and proportional division of the seats in the Parliament

87. In accordance with the legislation mentioned above under paragraph 39, people elect the members to both the Chambers of the Parliament.

Parliament's duties (Article 70 et ff. of the Italian Constitution)

88. The Constitution confers legislative powers upon Parliament. Parliament controls the policies and activities of the President of the Council of Ministers, as well as of the Council of Ministers, while draft laws may originate in either Houses and must be passed by a majority in both. The above Chambers jointly exercise the legislative power (*Bicameralismo perfetto*); and the right to legislative initiatives belongs to: the Government; each member of the Chambers; and those organs and bodies, as assigned by constitutional law (Article 70).

89. Chambers are also competent to declare war and to assign the necessary powers to Government. They ratify by law international treaties of political nature or provide for either arbitration and judicial regulation or modifications of the territory or impose financial burdens, or lead to modifications of the laws (Articles 78 through 81).

90. The relation between Parliament and Government entails that the former is in a position to pass a vote of confidence on the Head of Government and his/her Council of Ministers, while Head of Government (referred to in Italy as the President of the Council of Ministers) is empowered to: nominate, under confirmation of the Head of State, his/her Ministers, as laid down in Articles 92 (2), 95; and conduct and supervise the Government's policy (Articles 76-77, 94-95).

91. Article 95 sets forth as follows: "The President of the Council conducts and holds responsibility for the general policy of the Government. The President of the Council ensures the coherence of political and administrative policies, by promoting and coordinating the activity of the Ministers."

The Government (Articles 92 – 96 of the Italian Constitution)

92. The Government of the republic consists of the President of the Council of Ministers and of the Ministers, who jointly compose the Council of Ministers (Article 92 (1)).

93. Procedurally, the Head of State nominates a candidate for President of the Council of Ministers. Following appointment by the Head of State, the President of the Council of Ministers sets a timeframe within which s/he must gain confidence. In order to lead the Government, the Head of Government and his/her team must obtain a vote of confidence by both Chambers of the Parliament (Article 94 (1) (3)).

94. The Parliament is empowered to supervise the Government, but this does not mean that the rejection of a governmental proposal by a Chamber may lead to a Government resignation. As a constitutional guarantee and true expression of the principle of separation of powers, the Basic Law expressly stipulates that the request for a vote of no-confidence requires the signatures of at least one-tenth of the members of either Chamber and is not debated until three days after it has been filed (Article 94 (5)).

95. The Head of Government conducts and is responsible for the general policy of the Government. S/He ensures the unity of general political and administrative policies, by promoting and coordinating the activities of the Ministers. Within these directions, each

Italian Minister heads his or her portfolio independently and bears responsibility for it. Moreover, they can introduce Bills (Article 71) and draft Law-Decrees or draft Legislative Decrees (Articles 76 and 77).

96. Mr. Matteo Renzi is the current President of the Council of Ministers/Head of the Government and took the confidence with his Council of Ministers from the Parliament in February 2014. His Government has undertaken a programme which includes: institutional reforms; modernisation of public administration; reform of the judiciary system; job market reform; tax-rate cuts; re-launching of technological development; advancing women's rights; and improving social and education services.

State based on the rule of law

97. The structural principle of the State is based on the rule of law and binds all State powers to adhere to law and justice, especially basic rights. The executive and judicial powers are bound by legal norms of every type, even unwritten law (common law, general legal principles).

98. The legal norms have priority over all other State acts. A special form of this priority of the law applies to the principle of the priority of the Constitution, according to which no State act can contradict the Constitution. Accordingly, the Parliament itself — the democratically elected representative of the people — is bound by the constitutional order.

99. Binding Parliament to the Constitution was a central concern of the drafters of the Basic Law. Even the authors of the Constitution are bound to a core of basic constitutional principles, which cannot be amended (Article 139).

100. Further elements of the principle of a State based on the rule of law are *inter alia* the independence of the judiciary, the setting up of constitutional jurisdiction, the constitutional precept of legal security and the proportionality of means and ends in State acts which encroaches upon the rights of individuals.

101. The application of the principle of the State based on the rule of law ensures the impartial execution of State power and protects the State and the law from becoming mere instruments of political dictators. In line with the dynamism of the democratic political process, the principle of the State based on the rule of law aims at ensuring continuity and stability.

The judici y (Articles 101-113 of the Italian Constitution)

102. In the system of the State based on the rule of law with a division of powers, the Basic Law gives prominence and a particularly strong position to jurisprudence.

103. The judicial power is entrusted to independent judges, who are subject only to the Law (Article 101). The judiciary constitutes an autonomous and independent power, not subject to any others, as laid down in Article 104.

104. The law defines the organization of the judiciary and every judicial Authority. More specifically, the law ensures and protects the independence of: judges, special courts, public prosecutors, and of all those not belonging to the judiciary, who participate in the administration of justice (Article 108).

105. The independence of the judiciary does not imply that there is no organ of disciplinary jurisdiction. In fact, the Basic Law provides for the Superior Council of the Judiciary (*Consiglio Superiore della Magistratura* – acronym in Italian, CSM), which is chaired by the President of the Republic and mainly deals with infringements of duty by judges.

106. As laid down in Article 105, CSM has the exclusive competence to: appoint (clearly the appointment to the judiciary is based on competitive examinations), assign, move, promote, and discipline members of the judiciary.

107. Given the principle of separation of powers, on the one hand, and the respect for democracy and human rights on the other, extraordinary judges are forbidden and no *post factum* courts are allowed.

108. Within the ordinary courts, only specialized sections for specific matters may be established. The judicial power is exclusively exercised by ordinary and special Courts. The latter include: the Council of State, the Court of Accounts, and the military Tribunals. They all are regulated by law.

109. No amendments have been made to the relevant section of the Italian Constitution (Article 101 et ff.).

110. More recently, following Case C-379/10, *Commission v. Italy*, the Court of Justice of the EU ruled (Judgment, dated 24 November 2011) that Italy was violating EU law when excluding any liability of the Italian State for damage caused to individuals due to a breach of the EU law attributable to the Court of last instance, if this infringement stems from the interpretation made by the latter of provisions of law or assessment of facts and evidence.

111. Act No. 18/2015 has been thus introduced – This reform preserves the mixed system of the previous legislation (Act No. 117/88) structured on: the direct responsibility of the State; and the indirect one of the magistrate.

112. Constitutional jurisdiction is exercised by the Italian Constitutional Court.

The Constitutional Court (Articles 134-137 of the Italian Constitution)

113. The Constitutional Court deals only with infringements of specific constitutional law (Article 127; and from Articles 134 through 137).

114. The Constitutional Court consists of fifteen judges: one-third being appointed by the President of the Republic; one-third, by the Parliament in joint session; and one-third, by ordinary and administrative supreme Courts.

115. The Constitutional Court exercises its duty as one of the highest guardian of the Constitution in various ways. It becomes active when it is called upon. For example, it supervises the preliminary stages of referenda and is competent to judge in case of presidential impeachment.

116. When central and local Authorities claim that a state or a regional Act might be unconstitutional, they lodge complaints with the Constitutional Court. Therefore, the Court monitors Authorities to see whether they have observed the Constitution in their actions. It also arbitrates in disagreements between the highest State organs, and decides in proceedings between central and local Authorities.

117. The Courts must examine *ex officio* (the prosecutor) or upon request of the plaintiff/defendant whether the provisions, which they have to apply are in compliance with the Basic Law.

118. When a Court considers that an act on whose validity the Court's decision depends is unconstitutional, pursuant to Article 134 it suspends/stays the proceedings and obtains a decision from the Constitutional Court.

119. The Constitutional Court decides (and its decisions cannot be appealed): (i) disputes concerning the constitutionality of laws and acts with force of law adopted by State or Regions; (ii) conflicts arising over the allocation of powers between branches of

government within the state, between the state and the regions, and between regions; (iii) on accusations raised against the president in accordance with the constitution.

120. This Court decides on the validity of legislation, its interpretation, and if its implementation, in form and substance, is in line with the Basic Law. Thus, when the Court declares a law or an act with force of law unconstitutional, the norm ceases to have effect by the day after the publication of the decision.

Italian State

121. The Republic consists of Municipalities, Provinces,[22] metropolitan Cities, Regions and the State. They are autonomous entities with their own statutes, powers, and functions, according to the principles defined in the Constitution (Articles 5 and 114, et ff.). In particular, according to their "special statutes" (adopted by constitutional law), particular forms and conditions of autonomy are granted to: Friuli-Venezia Giulia, Sardinia, Sicily, Trentino Alto Adige, and Aosta Valley.

122. The Basic Law contains comprehensive lists of competences with regard to those areas where the Parliament is allowed to adopt acts. These include almost all important areas of life. However, over the last few decades, there has been a shift of emphasis in legislation with an increasing recognition of the role of Regions.

123. A sort of tension between a *unitarian* orientation, on the one hand, and a regional devolution, on the other, has to be underlined. The Italian system thus combines a decentralized state structure with a vertical division of powers, which supplements the classical division between legislative, executive and judicial powers.

124. Through the State-Region Conference and, more generally through the Italian Government and Parliament, the Regions contribute to the administration and legislation of Italy. They also contribute to specific matters concerning the European Union.

125. In observance of the Italian Constitution, Regions must comply with the principles of the republican, democratic and social state under the rule of law in the meaning of the Basic Law. Within this framework, Regions are "local Autonomies" with their own constitutions/statutes, parliaments and governments, and are even entitled to conclude international agreements with foreign States (Article 117).

126. More specifically, regional organs are: the regional Council that exercises the legislative power granted to the Region and all other functions conferred on it by the Constitution and by law (it may propose Bills to the Chambers) and whose number of members depends on the number of residents in that Region; the regional Executive, which is the governmental authority of the region; and its President, who represents the Region, conducts and is responsible for the general policy of the regional cabinet/Executive (thus s/he promulgates regional laws and regulations and conducts the administrative functions delegated to the Region by the State, in accordance with the instructions of central Government) (Article 121).

[22] By Act No. 56/2014, the Provinces of the ordinary regions have been turned into administrative authorities of a second level. In parallel, it has been planned the transformation of ten Provinces in the so-called metropolitan cities. The law under reference has abolished provincial Governments (*Giunta provinciale*) and re-distributed their competences within the respective provincial Councils. A new body has been also envisaged: the Assembly of Mayors that takes on the task to approve the budget and any statutory changes. By Regional Law No. 15/2015, the Sicilian Region has approved the elimination of the Provinces besides replacing them with six free "municipal consortia" and three metropolitan cities, in Palermo, Catania and Messina – though the latter have maintained the local and regional functions of the old Provinces.

127. In light of the people sovereignty principle, the legislative power belongs to the State and Regions, in accordance with the Constitution and within the limits set by European Union law and international obligations (Article 117).

128. While the State has exclusive legislative power on some key-issues, such as foreign policy and international relations, the right of asylum, State organs and electoral law, the Basic Law provides for a concurrent legislative power in issues, such as international and European union relations of the regions, foreign trade, protection and safety of labour (Article 117 (3)).

129. In order to fully express people's will, local Authorities have (residual) exclusive legislative power with respect to any matters not expressly reserved to state law (Article 117 (4)). Along these lines, for example in matters of concurrent legislation, the Regions cannot exercise legislative power with regard to fundamental principles, which are reserved to the State law.

Law-making process and the EU

130. Despite the lack of reference to the relationship between the State and the EU in Part First of the Constitution, the legislative body has expressly included it in Part Second. The Regions and autonomous Provinces also provide for the implementation and execution of international obligations and of the acts of the European Union, in compliance with the procedures set by State law (Article 117, last paragraph).

Cooperation between Regions

131. The relationship between central Authorities and Regions, and that one between the Regions themselves, is generally characterized by cooperation, which ensures both a holistic approach and a cultural and regional variety (Article 117 (8)).

The Municipalities

132. The Municipalities have a strong position. They can be categorized as a specially structured part of the Regions' administration, whilst at the same time possessing a guarantee of self-administration, as laid down in the Constitution. Municipalities are independent legal entities with their own laws, budget and staff.

133. As Municipalities, they have the right to self-administration. They also have a guaranteed right to settle all matters concerning the local community in their own competence and within the statutory framework. At the same time, the municipalities are the bottom rung of the general public administration both at the national and regional levels. They are subject to the supervision of higher Authorities.

Allocation of finances and budget

134. Each year, Chambers vote the draft law on budget, which the Government is engaged in drafting. With the aim of not altering the social balance and in fully compliance with the principle of social welfare state, no new taxes or expenditures may be envisaged in the budget law, and all other laws implying new or additional expenditures must define the means to cover them (Article 81).

135. In order to guarantee the financial independence of the Government and of the Regions, the Basic Law ensures that Regions are provided with sufficient funds, primarily by distributing income from taxes. In fact, they receive a share of the proceeds of state taxes related to their territory. Plus, local Authorities have autonomous resources (their own assets, assigned to them according to general principles established by State law). They also have financial autonomy regarding revenues and expenditures (Article 119).

136. In order to promote economic development, social cohesion, and solidarity and to remove economic and social inequalities, the State may allocate additional resources or take *ad hoc* measures in favour of specific municipalities, provinces and regions (Article 119 (4)).

137. The current Government is committed to, inter alia: decreasing the unemployment rate; combating horizontal and vertical segregation; removing barriers preventing women from entering and/or re-entering the labor market; fighting all forms of discrimination; and improving reconciliation policies.

138. As of 2014, the most important sectors of Italy's economy were: wholesale and retail trade; transportation; accommodation; food services (20.1%); industry (18.5%); public administration, defense, education, human health and social work activities (17.2%). Italy's main export partners are: Germany, France and the US while its main import partners are Germany, France and China.[23]

The social welfare State

139. Apart from the recognition of the so-called negative freedoms (which means the State simply recognizes rights and does not envisage to adopt any measures), the passage from the modern state to the social state is realised through the recognition *inter alia* of social rights, which require State intervention.

140. According to the structural principle of social welfare, state Parliament has the primary obligation to ensure freedom from need, an existence worthy of human beings and a suitable participation in the general prosperity. These are achieved by social contracts and resolution of conflicts, the structuring of society via State planning, the provision of services for the public, and social and economic progress.

141. The primary aim is to deal with situations of social need and disadvantage, such as those caused by illness, age, disability, unemployment and other disadvantageous circumstances (for additional information, please refer to the paragraphs 118 et ff. below).[24]

II. General framework for the protection and promotion of human rights

Introduction

142. Italy is a founding member of the European Union (January 1958), the Council of Europe (May 1949) and NATO (1949), as well as a member of several international Organizations and Institutions, including the United Nations, the OECD, the OSCE, the WTO, the G7, G20. Given its unique cultural wealth, Italy is home to 51 World Heritage Sites (as at July 2014).[25]

[23] http://europa.eu/about-eu/countries/member-countries/italy/index_en.htm

[24] For example, the social limitation of property in accordance with Article 42 (3).

[25] As for cultural heritage in Italy – Even though the protection of cultural heritage has been influenced by the economic crisis, the analysis below – which refers to public works, national lottery income, urgent and integrated programmes, financial supports to the private owners of cultural heritage assets, shows relevant trends, from 2007 (the beginning of the economic crisis) to 2015 (Source: Italian Ministry of Cultural Heritage and Tourism).

143. Finally, some special allocations to projects dealing with the safeguarding of cultural heritage have been established and their main effects are expected from 2016 onwards.

Italy and the EU

144. Italy has been at the forefront of European economic and political unification, joining the European Monetary Union in 1999. As one of the founding members of the European Union, Italy has been one of the main driving forces behind European integration, institutional reform and expansion of the Union since the earliest years of the community's life. A further important key-note of Italy is its role within the UN framework.

Italy and the UN

145. The Italian Government fully supports the United Nations, in which it plays an active role, with regard to, inter alia: peace-keeping and peace-building activities; safeguarding international security; development aid for the least developed countries; the campaign on the moratorium of the death penalty; the eradication of FGM and CEFM.

Italy - Safeguarding Resources (Euros)

Year	*National Lottery Income*	*Ordinary Program Public Works*	*Urgent and Integrated Programs*	*Financial supports to the private owners of Cultural Heritage Assets*	*Total*
2007	106.028.882,11	148.152.624,56	79.000.000,00	26.200.000,00	**359.381.506,67**
2008	89.228.322,42	99.543.800,48	65.878.758,00	21.985.261,00	**276.636.141,90**
2009	78.669.102,90	76.396.369,00	53.516.475,00	17.670.782,00	**226.252.728,90**
2010	60.860.584,00	87.640.381,43	51.211.759,00	24.369.132,00	**224.081.856,43**
2011	47.761.541,00	110.811.902,00	46.867.890,00	23.663.485,00	**229.104.818,00**
2012	48.480.233,00	70.557.600,00	37.017.890,00	50.663.485,00	**206.719.208,00**
2013	29.382.091,00	47.777.663,00	27.472.900,00	15.047.923,00	**119.680.577,00**
2014	22.570.339,00	51.370.063,00	8.868.182,07	17.830.222,00	**100.638.806,07**
2015	21.462.230,00	35.287.163,75	822.361,00	10.136.445,00	**67.708.199,75**

Despite the difficulties, cultural heritage protection is evident and positive trends stem from the number of visitors to museums, art galleries and cultural sites.

Visitors to Museums, Monuments, Galleries and Archaeological sites. Years 2008-2013

Years	*Visitors*	*Percentage change*
2008	33.106.648	
2009	32.380.144	-2,19%
2010	37.336.961	15,31%
2011	41.223.634	10,41%
2012	37.198.795	-9,76%
2013	38.424.587	3,30%

Finally, some special allocations to projects dealing with the safeguarding of cultural heritage have been established and their main effects are expected from 2016 onwards.

146. Among the various international Conferences, Italy participated in the Fourth World Conference on Women (Beijing, 1995); and it periodically produces relevant reports (the latest one was submitted in early 2014).

147. Italy actively participated in the negotiations on the Post-2015 Development Agenda supporting the option that the Agenda addresses directly the challenge of gender equality, while mainstreaming gender equality across the other goals and targets. On a more general note, Italy is firmly committed to a more dynamic approach to support peace processes, especially in Africa and to manage migration crises with a shared approach.

148. During its past two rotating rounds of Presidency of the Council of the EU (July-December 2003; and July-December 2014), Italy actively promoted, inter alia: the approval of the EU Guidelines on Children Affected by Armed Conflicts – prepared by closely working with the then UN SR on Children in Armed Conflict (O. Otunnu); re-launched the negotiation on the so-called 2008 *omnibus* horizontal EU Directive on Non-Discrimination, by specifically including the focus on data collection – necessary to steer relevant policies; and the fight against THB.

149. More generally, Italy is promoting dialogue with third countries, within the framework of initiatives, such as the Rabat Process. In line with the latter and the EU-Africa Dialogue on Migration and Mobility, the Italian Presidency of the EU has been promoting "The EU-Horn of Africa Migration Route Initiative"/ EU-HoAMRI.

A. Acceptance of international human rights norms

International instruments

Main international human rights Conventions and Protocols	
International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966	Signed on 18 January 1967 and ratified on 15 September 1978
International Covenant on Civil and Political Rights (ICCPR), 1966	Signed on 18 January 1967 and ratified on 15 September 1978[26]
International Convention on the Elimination of All Forms of Racial Discrimination, (ICERD), 1965	Signed on 13 March 1968 and ratified on 5 January 1976 Reservations made to Articles 4(a), 4(b) and 6, and declaration under Article 14[27]

[26] *Article 15, paragraph 1*: With reference to article 15, paragraph 1, last sentence: "If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby", the Italian Republic deems this provision to apply exclusively to cases in progress. Consequently, a person who has already been convicted by a final decision shall not benefit from any provision made by law, subsequent to that decision, for the imposition of a lighter penalty. *Article 19, paragraph 3*: The provisions of article 19, paragraph 3, are interpreted as being compatible with the existing licensing system for national radio and television and with the restrictions laid down by law for local radio and television companies and for stations relaying foreign programs.

[27] *Declaration made upon signature and confirmed upon ratification*: (a) The positive measures, provided for in article 4 of the Convention and specifically described in sub-paragraph: (a) and (b) of that article, designed to eradicate all incitement to, or acts of, discrimination, are to be interpreted, as that article provides, "with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5" of the Convention. Consequently, the obligations deriving from the aforementioned article 4 are not to jeopardize the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association which are laid down in articles 19 and 20 of the Universal Declaration of Human Rights, were reaffirmed by the General Assembly of the United Nations when it adopted articles 19 and 21 of the International Covenant on Civil and Political Rights, and are referred to in articles 5 (d) (viii) and (ix) of the

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979	Signed on 17 July 1980 and ratified on 10 June 1985[25]
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984	Signed on 4 February 1985 and then ratified on 12 January 1989. Declaration under Articles 21 and 22
Convention on the Rights of the Child (CRC), 1989	Signed on 26 January 1990 and ratified on 5 September 1991
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, (ICMW), 1990	Italy recalls the ratification of ILO Conventions C143 and C189, under which we have accepted to be periodically reviewed
International Convention on the Protection of the Rights of Persons with Disabilities and the Optional Protocol thereto	Signed on 30 March 2007 and ratified on 15 May 2009
Optional Protocol to ICESCR	Signed on 28 September 2009 and ratified on 20 February 2015
International Convention for the Protection of All Persons from Enforced Disappearance	Signed on 3 July 2007 and ratified on 8 October 2015
Optional Protocol to the CRC on the involvement of children in armed conflict, 2000	Signed on 6 September 2000 and ratified on 9 May 2002[26]
Optional Protocol to the CRC on the sale of children, child prostitution, and child pornography, 2000	Signed on 6 September 2000 and ratified on 9 May 2002
Optional Protocol to the CRC on a communication procedure	Signed on 28 February 2012 and ratified on 4 February 2016
Optional Protocol to ICCPR, concerning individual petition, 1966	Signed on 30 April 1976 and ratified on 15 September 1978[27]
Second Optional Protocol to ICCPR, concerning abolition of the death penalty, 1989	Signed on 13 February 1990 and ratified on 14 February 1995
Optional Protocol to CEDAW, concerning individual complaints and inquiry procedures, 1999	Signed on 10 December 1999 and ratified on 22 September 2000
Optional Protocol to CAT, concerning regular visits by national and international institutions to places of detention, 2002	Signed on 20 August 2003 and ratified on 3 April 2013
Other United Nations human rights and related Conventions	
Convention on the Prevention and Punishment of the Crime of Genocide, 1948	Ratified on 4 June 1952
Slavery Convention, 1926 as amended 1955	Participation on 4 February 1954

Convention. In fact, the Italian Government, in conformity with the obligations resulting from Articles 55 (c) and 56 of the Charter of the United Nations, remains faithful to the principle laid down in article 29 (2) of the Universal Declaration, which provides that "in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society."
(b) Effective remedies against acts of racial discrimination which violate his individual rights and fundamental freedoms will be assured to everyone, in conformity with article 6 of the Convention, by the ordinary courts within the framework of their respective jurisdiction. Claims for reparation for any damage suffered as a result of acts of racial discrimination must be brought against the persons responsible for the malicious or criminal acts which caused such damage.

[25] *Upon signature: Reservation.* Italy reserves the right to exercise, when depositing the instrument of ratification, the option provided for in article 19 of the Vienna Convention on the Law of Treaties of 23 May 1969.

[26] *Declaration.* "The Government of the Italian Republic declares, in compliance with article 3: That Italian legislation on voluntary recruitment provides that a minimum age of 17 years shall be required with respect to requests for early recruitment for compulsory military service or voluntary recruitment (military duty on a short-term and yearly basis); That the legislation in force guarantees the application, at the time of voluntary recruitment, of the provisions of article 3, paragraph 3, of the Protocol, inter alia, as regards the requirement of the consent of the parent or guardian of the recruit."

[27] The Italian Republic ratifies the Optional Protocol to the International Covenant on Civil and Political Rights, it being understood that the provisions of article 5, paragraph 2, of the Protocol mean that the Committee provided for in article 28 of the Covenant shall not consider any communication from an individual unless it has ascertained that the same matter is not being and has not been examined under another procedure of international investigation or settlement.

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1950	Ratified on 18 January 1980
Convention relating to the Status of Refugees, 1951, and its 1967 Protocol	The former, signed on 23 July 1952 and ratified on 15 November 1954, the latter, ratified on 26 January 1972
Convention relating to the Status of Stateless Persons, 1954	Signed on 20 October 1954 and ratified on 3 December 1962[51]
Convention on the Reduction of Statelessness, 1961	Ratified on 1 December 2015
Rome Statute of the International Criminal Court, 1998	Signed on 18 July 1998 and ratified on 26 July 1999
United Nations Convention against Transnational Organized Crime, 2000, and its Protocols against the smuggling of migrants by land, sea and air, and to prevent, suppress and punish trafficking in persons, especially women and children	Signed on 12 December 2000 and ratified on 2 August 2006
Conventions of the International Labour Organization	
Weekly Rest (Industry) Convention, 1921 (No. 14)	Ratified on 8 September 1924
Forced or Compulsory Labor Convention, 1930 (No. 29)	Ratified on 18 June 1934
Labor Inspection Convention, 1947 (No. 81)	Ratified on 22 October 1952
Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)	Ratified on 13 May 1958
Migration for Employment Convention, 1949 (No. 97)	Ratified on 22 October 1952
Right to Organize and Collective Bargaining Convention, 1949 (No. 98)	Ratified on 13 May 1958
Equal Remuneration Convention 1951 (No. 100)	Ratified on 8 June 1956
Social Security (Minimum Standards) Convention, 1952 (No. 102)	Ibidem
Abolition of Forced Labor Convention, 1957 (No. 105)	Ratified on 15 May 1968
Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)	Ratified on 12 August 1963
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	Ibidem
Equality of Treatment (Social Security) Convention, 1962 (No. 118)	Ratified on 5 May 1967
Employment Policy Convention, 1964 (No. 122)	Ratified on 5 May 1971
Labor Inspection (Agriculture) Convention, 1969 (No. 129)	Ratified on 23 June 1981
Minimum Wage-Fixing Convention, 1970 (No. 131)	Ratified on 5 May 1971
Holidays with Pay Convention (Revised), 1970 (No. 132)	Ratified on 28 July 1981
Minimum Age Convention, 1973 (No. 138)	Ibidem
Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)	Ratified on 23 June 1981
Labor Relations (Public Service) Convention, 1978 (No. 151)	Ratified on 28 February 1985
Occupational Safety and Health Convention, 1981 (No. 155)	Ratified on 7 June 2000
Worst Forms of Child Labor Convention, 1999 (No. 182)	Ratified on 7 June 2000
Maternity Protection Convention, 2000 (No. 183)	Ratified on 7 February 2001
Conventions of the United Nations Educational, Scientific and Cultural Organization[52]	
Convention against Discrimination in Education, 1960	Ratified on 6 October 1966

[51] The provisions of Articles 17 and 18 are recognized as recommendations only.

[52] More Conventions, and the respective ratification processes, are available at http://www.unesco.org/eri/la/conventions_by_country.asp?countr=IT&language=E&typeconv=1.

Other relevant international instruments

150. Italy ratified the 1949 Geneva Conventions on 17 December 1951 and the Additional Protocols, on 27 February 1986.[11] On April 2, 2014, Italy also ratified the Arms Trade Treaty.

151. At the regional level, Italy ratified several human rights treaties, such as the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms (in 1955) and Additional Protocols from 1 to 14 save 12 (signed in Rome, in November 2000), the European Conventions for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (in 1988), including its two Optional Protocols (in 1999) and the European Convention on the Exercise of the Children's Rights (in 2003); the European Social Charter (1999); the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention (2012)); the Council of Europe Convention on Action against Trafficking in Human Beings (Warsaw Convention (2010)); and the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention (2013)).

152. The complete list of CoE Conventions ratified by Italy can be retrieved from:http://www.coe.int/en/web/conventions/fulllist/conventions/treaty/country/ITA?p_auth=i8cEs5rg.

B. Legal framework for the protection of human rights at the national level

The list of basic rights contained in the Constitution

153. The basic rights contained in the Constitution are primarily rights to freedom, protecting the individual from State interference in one's freedom. At the same time, they provide the framework within which individuals can develop themselves freely in society, and their individuality, independence, self-determination and responsibility for one's own actions are to be respected by the State.

154. Within the Basic Law framework, people are not considered as isolated, sovereign individuals, but they are included into the society framework and bound to it, without damage to one's dignity. In fact, the Republic recognizes and guarantees human rights, and ensures political, economic, and social solidarity (Article 2).

Rights to freedom

155. The Fundamental Principles section (Articles 1 through 12) of the Italian Constitution, which expressly mentions the duty placed on all State powers to respect and protect human dignity and equality (Articles 2 and 3), encompasses the so-called "supreme principles" and heads the list of basic rights.

156. Basic rights are guaranteed to all. The Basic Law stipulates that all citizens enjoy equal rights and are equal before the law regardless of sex, race, language, religion, political opinion, and personal or social conditions (Article 3).

157. More specifically, "It is the duty of the Republic to remove those obstacles of an economic or social nature which constrain the freedom and equality of citizens, thereby impeding the full development of the human person and the effective participation of all workers in the political, economic and social organization of the country (Article 3(2))".

[11] Declaration relating to Protocol I, which is retrievable from: https://www.icrc.org/applic/ihl/ihl.nsf/Notification.xsp?action=openDocument&documentId=E2F248CE54CF09B5C1256402003FB443

158. Within this framework, basic rights are the right to life and to physical integrity, as well as to individual freedom (Article 13), the right to equal treatment, including equal rights of men and women in all areas (Article 3), the right to freedom of movement (Article 16) and the rights to freedom of conscience, and worship (Article 19), as well as the right to freely express and disseminate opinions, which includes the freedom of the press (Article 21). Special guarantees for families, as well as for access to education and to labour market are enshrined and provided for in Part First of the Italian Constitution.

- Apart from the provision concerning the right to freedom of expression (Article 21), the freedom of assembly and association (Articles 17 and 18) supplemented by the right to form political parties (Article 49) are guaranteed to all Italian nationals;
- Irrespective of nationality, Article 15 ensures the inviolability of privacy of letters, mails, and telecommunications;
- Article 14 focuses on the inviolability of domicile;
- And, more generally, the right to property enjoys protection under Article 42.

159. As a *pendant naturel* of the principle of equality (Article 3), Article 10 provides for the principle of respect for non-citizens, asylum-seekers and, generally speaking, for foreigners.

160. It stipulates: "No Italian national may be deprived of Italian citizenship or extradited to a foreign country". Whoever is politically persecuted or deprived of democratic liberties in his/her own countries, has the right to seek asylum.

161. Italy does not allow extradition for political offences (Article 26) — except for the crime of genocide (in this regard, constitutional Law No. 1/1967 envisages that "In case of genocide, Article 10, last paragraph, and Article 26, last paragraph, of the Italian Constitution cannot be applied").

162. Foreigners in Italy enjoy the same basic rights recognized to Italian citizens,[34] including those rights that international treaties provide for, and extend to, non-citizens. In addition, the principle of the so-called *condition of reciprocity* (Preliminary provision to Civil Code, 16) applies.

163. The First Part of the Basic Law (Articles 13 through 54), entitled "Rights and duties of the citizens", includes a number of rights, which are protected as basic rights. In detail: Title First is devoted to "Civil relations"; Title Second, "Ethical and social rights and duties"; Title Third "Economic rights and duties"; and Title Fourth is devoted to "Political rights and duties" — which are based upon the provision stipulating that nobody may be deprived of his/her legal capacity, citizenship, or name for political reasons (Article 22). Along these lines, it is also worth-mentioning basic judicial guarantees and safeguards, as enshrined in Article 24 et ff. concerning: the right to a fair trial, the right to defence, the principle of *ne bis in idem*, the principles of *nullum crimen, nulla poena sine lege* and *tempus regit actum*, and so forth.

Cultural rights

164. The freedom of art and science (Research and teaching) is guaranteed by Article 9 of the Basic Law, "The Republic promotes cultural development and scientific and technical

[34] The Constitutional Court stressed the equality between Italian citizens and Non Italian citizens in the enjoyment of basic human rights (Verdict No. 187/10), and that the solely criterion of citizenship cannot be reasonable in itself. In fact, when the Public Administration detects a need, this cannot be limited to the minimum stay duration criterion (Verdict No. 2/2013).

research". These rights to freedom are not subject to any statutory restriction. This provision contains the right to freedom for all artists and all those who participate in the performance and dissemination of works of art from intervention by public power in the area of arts. It also entrusts the State with the task of maintaining and encouraging a free cultural life. Further, it stipulates that arts, sciences, and education are free (Article 33) and that schools are open to everyone. Above all, primary education is compulsory and free of tuition (Article 34 (3)). To guarantee the highest standard of education (Article 9), should financial resources lack, pupils and students can apply for scholarships, allowances, and other measures, to be assigned through competitive examinations.

Social rights

165. The social welfare State emerges *inter alia* from the following Articles: 4, 32, 34, 36 (1), 36 (3), 37 (1), 37 (3) and 38, of the Basic Law. It obliges the State to engage in social, political and welfare activity, and to create social justice (It prohibits State abstention in the social area).

166. The principle of the social welfare State is given concrete form by several provisions on fundamental right, in areas which are both important to life and which are basic: the obligation incumbent on the State to provide protection becomes an obligation to act in compliance with the principles of the social welfare State. Therefore, the Republic protects the right to health for all and guarantees the highest standards of physical and mental health, also by providing for free medical care to the poor (Article 32 (1)). Article 38, in conjunction with Article 2, paragraph 2, of the Basic Law, obliges the State to ensure a minimum standard of living to those who are in need.

167. From Articles 29 through 31, the duty of the State to provide protection for marriage and the family, as well as to protect mothers and children born out of wedlock, engages the Parliament and Government to provide equal conditions for physical and mental development.[35]

168. The general principle of equality, contained in Article 3, poses an obligation incumbent on the State: to further the implementation of the principle of equal treatment between men and women[36] and, more generally, to move forward the abolition of existing disadvantages and barriers, which particularly affect persons with disabilities (*No one may be discriminated against because of a disability* (Article 38 (3)).

169. In the area of labour and professional law, mention has to be made of: the right guaranteed in Article 39 of the Basic Law, to form associations and trade unions to safeguard and to improve working and economic conditions; Articles 37 and 51 relating to equal access to labour and public offices and gender equality.

[35] (Source: From the VII periodic report of Italy to CEDAW) Legislative Decree No. 154/2013 equates legitimate children to those born out of wedlock (thus impacting also on *more uxorio* cohabitation), besides further extending the right to be heard. On May 26, 2015, Act No. 55/2015 expediting the divorce proceeding (to be 12-month-long max., besides envisaging its reduction to 6 months in case of mutual consent) entered into force.

[36] In addition to Article 3 of the Italian Constitution, Article 1 of the Code on Equal Opportunities between Women and Men (Legislative Decree No. 198/2006) sets forth "Relevant provisions envisage measures, aimed at eliminating whatsoever distinction, exclusion or limitation based on sex, which might affect or hinder the enjoyment and exercise of human rights and fundamental freedoms (...)" in all spheres of life. Thus, there is no legal discriminations with regard to civil, political, social, economic or cultural rights between women and men.

Economic rights

170. Among the basic foundations of Italy's economic system, there are: a mixed system for entrepreneurship and private property; central planning, which is entrusted to public Authorities; an extensive system of protection of workers; the protection of the property which is conceived in broad terms, including the sale or disposal of property; the freedom to work in the entrepreneurial area, and so forth.

171. In accordance with the rule of law, the Constitution envisages economic rights, such as the ownership of property, the freedom to undertake economic initiatives, the right to work and to freely choose one's work. In Italy, the above rights carry with them several implications, such as the right to form trade unions (Article 39), the right to just and favourable conditions of work (Article 36), equal treatment (Article 37) and social security (Article 38). Thus, to apply the principle of social solidarity (Article 2), the law can impose limits on ownership and economic initiatives, in line with Articles 41 and 42, respectively.

172. In order to re-launch the Italian economy, public initiative plays a significant role in order to support private economic activities, particularly in depressed areas and in sectors in crisis, also through and thanks to EU interventions, which are mainly implemented through the European Social Funding.

173. The economic principles enshrined in Italy's Constitution include, as follows: those relating to labour market and to workers' rights; those concerning the wealth, those favouring specific sectors; and those regulating the public intervention.

174. Taking into consideration that Article 1 of the Italian Constitution stipulates that the Italian Republic is founded on labour, Article 35 envisages intervention by the State to favour the labour market and to protect employment at every level. In addition, Articles 36, 37, 38 and 46 (2), provide for equal pay, equal access to labour market and social security.

175. In light of the above, the following novelties are to be mentioned:

(a) To achieve an inclusive and dynamic labor market, Act No. 183/2014, the so-called Jobs Act aims at increasing and facilitating, through various measures, that persons can be employed with permanent contracts as the general work relationship. In this context, soon it will be established an Inspecting Agency, as mentioned in the above Act. This Agency will be tasked with monitoring activities so as to unify and replace the Ministry of Labor and Social Policies, the National Institute for Social Security (INPS) and the National Institute of Insurance against Accidents occurring at the Workplace (INAIL). More specifically, the "Jobs Act" has the two-fold aim of: promoting job access; and reforming both the labor market and social protection system. The reform has been implemented through several legislative acts, such as Law-Decree No. 34/2014, converted into Act No. 78/2014.

(b) Among the national policies, aimed to facilitate job access for persons with disabilities, mention has to be made of the benefits for the employers who hire persons with disabilities with open-ended contracts, financed with the resources of the Fund for the right to work of the persons with disabilities, established by Article 13, paragraph 4, of Act No. 68/1999 at the Ministry of Labor, and allocated on an annual basis to the Regions, with the following amount:

Decrees	*Resources*
Decree 27 May 2015	21.910.107 Euros
Decree 12 May 2014	21.845.924 Euros
Decree 6 December 2013	12.590.387 Euros
Decree 18 July 2012	2.429.702 Euros
Decree 28 November 2011	2.725.800 Euros

(c) Law-Decree No. 101/2013 provides that public administrations set the numbers of compulsory employments for the so-called protected categories on the basis of quotas and criteria stated by the existing legislation, restating, if necessary, the total number of employees. After the restating of the number of employments, every administration is obliged to hire, with an open-ended contract, a number of employees based on the difference between the set number and the existing ones. Moreover, workers with disabilities, employed with a fixed-term contract, have a priority right to be employed with an open-ended contract, within the limits of the mandatory quota. Act No. 183/2014, the so-called "Jobs Act", delegates to the Government the issuing of legislative decrees aimed to the rationalization and review of procedures and implementations in matter of targeted placement of persons with disabilities. On September 4, 2015 the Council of Ministers approved a Legislative Decree, on "Provisions for the rationalization and the simplification of procedures and implementations charged to citizens and enterprises and other dispositions in matter of employment relationship and equal opportunities, in implementation of Act No. 183/ 2014", whose Chapter I concerns the Rationalization and Simplification in matter of Targeted Placement of Persons with Disabilities.[37]

(d) In order to promote female entrepreneurship, the Department for Equal Opportunities (DEO) at the Presidency of the Council of Ministers established in 2013, a Special Section of the Central Guarantee Fund for SMEs following the agreement – signed on 14 March 2013 – among the Presidency of the Council of Ministers – DEO, the Ministry of Economic Development and the Ministry of Economy. This Section has been operational since January 2014. It aims to promote women's entrepreneurship by facilitating access to credit for women-owned businesses. The initial 10-million-Euro budget of the Section, financed by DEO, was increased by 20 more million Euros, by Law-Decree No. 145/2013, converted with amendments into Act No. 9/2014 (the so-called "*Destination-Italy Plan*").

(e) Therefore, it currently amounts to 30 million Euros, 50% of which is destined to female business start-up. The endowment of the Section allows benefits granting as: direct guarantee, co-guarantee; and countersecurity. It covers financial transactions for businesses with a majority female ownership. In December 2014, DEO, the Ministry of Economic Development and the Ministry of Economy signed the additional Act to extend this benefit to self-employed women. Also an MoU among DEO, the Ministry of Economic Development, Italian Banking Association (ABI), Confindustria, Confapi, Enterprise Network Italy and Alliance of Italian Cooperatives provides for an intervention plan, aimed to facilitate access to credit for women-led SMEs – as defined by Act No. 215/1992, on women entrepreneurship and EU legislation – and for self-employed women, including freelancers. It introduces a specific *platond* dedicated to initiatives for female enterprises and self-employed women. In particular, it aims at: supporting women-led start-ups; new investments; support for women when encountering difficulties in running their business.

[37] The priorities areas for relevant interventions concern: Strengthening of the targeted employment through the definition of Improvement of the matching of the job offer and demand. Recruitment bonuses. Database of the Targeted Employment. Impact of the job integration programs aimed to the full employment of persons with disabilities Data from the Report to the Parliament on the implementation of Act No. 68/99 relating to biennium 2010-2011 and to biennium 2012-2013 are below provided. Therefore, as for enrollment into the Provinces lists, mention has to be made of the following: Year 2010: registered 743.623, of whom 359.553 women. Year 2011: registered 644.029, of whom 308.142 women. Year 2012: registered 728.326, of whom 346.430 women. Year 2013: registered 676.775, of whom 319.673 women. Regarding the job placement of persons with disabilities enrolled in the job lists, mention has to be made of the following: Year 2010: placed 22.360, of whom 8.862 women. Year 2011: placed 22.023, of whom 8.902 women. Year 2012: placed 19.114, of whom 7.941 women. Year 2013: placed 18.295, of whom 7.453 women.

(f) To counter the economic crisis, Italy has also introduced specific support measures for families, such as *"Bonus Bebè"*, in addition to allowances for larger families – a provision extended to migrants regularly living in Italy.

- More specifically, *"Bonus Bebè"* amounts to a monthly 80-Euro allocation by the National Institute of Social Security (INPS), under the following cases: for new-born babies; and those ones adopted, between January 1, 2015 and December 31, 2017, by families with a lower annual income not exceeding 25,000,00 Euros.
- Such a Bonus increases to 160 Euros for those families, with a lower income – but not exceeding 7,000 Euros, per year.

(g) With regard to the pension systems for the public sector, Act No. 02/2009 has risen women's retirement age, also through a gradual mechanism, in order to allow equal pension treatment. Equal treatment and the prohibition of pay discrimination stand also for the supplementary and collective pension funds. Along these lines, Act No. 214/2011 sets up a Fund on Women and Youth Employment, to be fed with 740 million Euros, for 2012-2015.

(h) Despite the economic crisis, efforts have been enhanced to fight against poverty. On January 28, 2016, the Government has envisaged a Plan to fight poverty, aimed at supporting over 250,000 families, with a financial allocation amounting to approx. 800 million Euros.

176. The regulation of wealth is subject to specific controls, to guarantee an effective enjoyment of the freedom of the individual to engage in economic activity, as stipulated in Article 42 of the Italian Constitution.

177. Organs of the central Authorities, such as the Ministry of Economy, the Inter-ministerial Committee of Economic Programming (acronym in Italian, CIPE), and the Bank of Italy, coordinate and control the supply of credit.

Further development of basic rights

178. The basic rights contained in the Basic Law have been enhanced and/or developed through new legislation, as well as the decisions made by the domestic courts, especially by the Italian Constitutional Court. A recent example of the further development of the basic rights refers to the equation of rights between legitimate children and those born out of wedlock, as set for by Legislative Decree No. 154/2013 – in light of, among others, Constitutional Court Verdict No. 335/2009.

Maintaining basic rights

179. The Basic Law may only be amended by the so-called "aggravated procedure" (Article 138). The Constituent Assembly's intention was to create a Basic Law, which could not be easily removed by the Parliament.

180. Inter alia, Article 139 declares that amendments to the Basic Law are inadmissible if they affect the basic decision taken in Article 1 to opt for the republican, democratic and social form of State: "The form of the Italian State, namely a Republic, is not subject to amendment (Art. 139)".

181. Furthermore, basic rights may only be subject to the restrictions specified in the Basic Law itself and only stated therein. In any case, Parliament has only the powers and functions as provided for by the Constitution (Article 55 et ff.).

Implementation of domestic basic rights

182. The respect for human rights, as developed in the European Constitutions since XIX century, dates back to the eighteen-century revolutions (the American Revolution (1775-1783) and the French Revolution (1789 – 1799)).

183. The basic rights contained in the Constitution are binding on the Legislative, the Executive, and the Judiciary (Articles 2, 3, 13 et ff.). Independent courts ensure protection of these rights. Articles 24 and 25 grant to any person, whose basic rights have been violated, the right to go to court.

184. The compliance with law, and the respect for basic rights, produces its effects at every level, by the application of Acts (by the fact that the provisions must be interpreted in the light of the constitutionally protected basic rights) and by the activity of the Courts and Authorities that are continuously concerned with the protection of these rights when applying provisions: respect for basic rights is thus not only at the core of the written Constitution, but also of State's activity in practice. Needless to say, Italy also complies with Article 10 of the Constitution:

> The Italian legal system conforms to the generally recognized principles of international law.

Complaints of unconstitutionality

185. The decisions of the Italian Constitutional Court contribute to the above context by interpreting the Constitution and thus by maintaining the standard of basic rights. The decisions by the Court are binding on the constitutional Bodies of the State, as well as on all Courts and Authorities, and have the force of law.

> The Italian Constitutional Court thus performs a central task in protecting basic rights.

186. Procedurally, the Courts must examine whether the provisions to be applied are in compliance with the basic rights protected by the Italian Constitution. When a court considers that an act, whose validity its decision depends on is unconstitutional, pursuant to Article 134 of the Basic Law it must suspend the proceedings and shall obtain a decision from the Constitutional Court.

Basic rights under civil law and criminal law

187. The administration of justice particularly relates to the relationship between State and citizens. In fact, the Constitution guarantees the right to defence (Article 24) and the independence of judges (Article 102). The judges are only subject to Law (Articles 101, 102). The principle of the right to a fair trial (Article 111) includes the right to be informed promptly of the nature and cause of the accusation against him/her (Article 111(3)), as well as the right to being judged by courts (which are divided in ordinary and special courts. As above reported, courts cannot be set up *post factum*).

188. More specifically, anyone is entitled to a fair trial by an independent and impartial tribunal, established by law (Articles 25 and 102) and in compliance with the following principle: "nullum crimen, nulla poena sine lege" (Article 25 (2)).

189. Article 24 stipulates that anyone may go to court to protect one's rights. This provision mainly refers to the right of defence, which is an inviolable right, at every stage of the legal proceedings.

190. Therefore, Article 111 of the Constitution states, as follows: "Jurisdiction is implemented through due process regulated by law. All court trials are conducted with adversary proceedings and the parties are entitled to equal conditions before an impartial

judge in third party position. The law provides for the reasonable duration of trials. in criminal law trials, the law provides that the alleged offender shall be promptly informed confidentially of the nature and reasons for the charges that are brought and shall have adequate time and conditions to prepare a defense. The defendant shall have the right to cross-examine or to have cross-examined before a judge the persons making accusations and to summon and examine persons for the defense in the same conditions as the prosecution, as well as the right to produce all other evidence in favor of the defense. The defendant is entitled to the assistance of an interpreter in the case that he or she does not speak or understand the language in which the court proceedings are conducted. In criminal law proceedings, the formation of evidence is based on the principle of adversary hearings. The guilt of the defendant cannot be established on the basis of statements by persons who, out of their own free choice, have always voluntarily-avoided undergoing cross-examination by the defendant or the defense counsel. The law regulates the cases in which the formation of evidence does not occur in an adversary proceeding with the consent of the defendant or owing to reasons of ascertained objective impossibility or proven illicit conduct. All judicial decisions shall include a statement of reasons. Appeals to the Court of Cassation in cases of violations of the law are always allowed against sentences and against measures affecting personal freedom pronounced by ordinary and special courts. This rule can only be waived in cases of sentences by military tribunals in time of war. Appeals to the Court of Cassation against decisions of the Council of State and the Court of Accounts are permitted only for reasons of jurisdiction".

191. The basic rights have been created primarily in order to protect human dignity. In reaching their decisions, judges must interpret provisions, in compliance with the general value system of the basic rights.

Appeal to ECtHR

192. Under the European Convention for the Protection of Human Rights and Fundamental Freedoms, complaints can be brought against Contracting States either by other Contracting States or by individual applicants claiming to be a victim of a violation of the Convention (individuals, groups of individuals or NGOs).

193. In 2015, the Strasbourg Court dealt with 4,463 applications concerning Italy, of which 4,438 were declared inadmissible or struck out. It delivered 24 judgments (concerning 25 applications), 20 of which found at least one violation of the European Convention on Human Rights. As at 2014, applications allocated were, as follows: 5476 judgments, 44 of which found 39 violations and 2 non-violations.

194. Relevant and recent cases before the ECtHR can be retrieved from: http://www.echr.coe.int/Documents/CP_Italy_eng.pdf.

Compensation

195. Under Italian law, there is no separate compensation system applying when basic rights are violated, but the general provisions apply. For instance, where any person in the exercise of a public office entrusted to him or her violates his or her official obligations to a third party, liability lies on principle with the State or with the public body employing him or her. The damaged party can demand compensation (Article 28 of the Constitution). The Law also defines the terms under which to apply for reparation in the case of judicial errors, pursuant to Article 24(4) of the Constitution.

196. Over the last years, various measures have been also envisaged in this area, such as the DEO Special Solidarity Fund for the Victims of Discrimination (November 2014) and the special Fund for the Victims of Trafficking in Human Beings (THB).

197. Pursuant to the Italian legal system, each person may claim violation of his/her rights. Assistance is provided by a highly developed network of legal professionals and special interest groups. In individual areas, in light of the Basic Law, special procedures, institutions and institutes have been developed, such as free legal aid for the indigents. Moreover, in the event of women victims of violence (VAW), free legal aid is ensured regardless of the requirement related to low income.

198. Turning to specific State bodies, mention has to be made of the Parliamentary Commissions pursuant to Article 82 of the Basic Law. In order to maintain the basic rights and to investigate on matters of general interest, the Italian Parliament is empowered to appoint a single-Chamber or a bicameral Commission of Enquiry.

199. Procedurally, each Chamber may start inquiries into matters of public interest, by appointing mixed or single-Chamber committees, composed in proportion to the size of the groups in the Parliament. The Commission of Enquiry investigates and examines relevant matters, by availing itself of the same powers and limitations of the judiciary (Article 82).

200. Specifically set up by the Parliament, the parliamentary Commission of enquiry examines and adjudicates *inter alia* on complaints relating to different cases of accusation. They also carry out control and enquiry activities. As a way of example, it is worth mentioning the Commissions[38] on "The phenomenon of mafias and other criminal organizations, including the foreign ones" and on "Waste Cycle and the related illicit activities". Since the first Legislature, approximately 65 parliamentary Commissions have been established.

201. Mention has also to be made of the two existing specific parliamentary Committees on the promotion and protection of human rights, chaired by Hon. Pia Locatelli in the Chamber of Deputies and Sen. Luigi Manconi in the Senate.

Other relevant Bodies

202. In light of the Paris Principles (A/RES/48/134), among various relevant proposals, Bill No. S.1908, entitled "Establishment of the National Authority on Human Rights", is currently under discussion before the Senate Commission on Constitutional Affairs.

203. The Inter-ministerial Committee for Human Rights (acronym in Italian, CIDU) was established in 1978, at the Ministry of Foreign Affairs and International Cooperation (MFAIC).[39]

204. In terms of composition, each Ministry appoints a specific human rights focal point participating in CIDU's work. It thus consists of, among others: Presidency of the Council of Ministers (acronym, PCM); Ministry of Justice; Ministry of Interior; Ministry of Education; Ministry of Labour; Ministry of Health; Ministry on Economic Development; Ministry of Defence; Ministry on Environment; Ministry on Agriculture; Ministry on Cultural Heritage; the National Office against Racial Discrimination; CSM; CNEL; ISTAT; Carabinieri Corps; Revenue Guards Corps (*Guardia di Finanza*); the National Association of Italian Municipalities (in Italian, ANCI); and the Italian Society for International Organizations (SIOI)).

205. With an inter-ministerial and participatory approach, CIDU as the standing national reporting (and follow-up) mechanism[40] performs the following tasks: a) review of all laws,

[38] http://www.parlamento.it/604); http://www.parlamento.it/leg/17/BGT/Schede/Bicamerali/v3/4-00128.htm

[39] Although closed down in July 2012 following the so-called spending review exercise, it was later re-established in September 2013.

regulations and administrative acts adopted at the national and local levels concerning pledges taken at the international level in the area of human rights; b) advisory activity on the adoption of provisions in line with relevant international obligations; c) coordination and drafting of reports, including those on the implementation of international human rights Conventions that Italy is requested to submit to the UN, Council of Europe, and other Organizations and mechanisms in the field of human rights; d) participation in international conferences and fora, such as the yearly sessions of the UN Human Rights Council (Geneva) and the UNGA Third Committee (New York); e) preparation of the national reports and consideration of Italy under the Universal Periodic Review Mechanism (UPR); f) elaboration and focal point for the National Action Plan on Women, Peace and Security in accordance with Security Council Resolution 1325(2000); g) (current) preparation of the National Action Plan on Business and Human Rights.[41]

206. The Department for Equal Opportunities (DEO) at the Presidency of the Council of Ministers is responsible for guidance, proposal and coordination of regulatory and administrative initiatives to support women's human rights; prevent and eliminate all forms of discrimination, combat VAW, exploitation and THB, as well as all violations of the fundamental rights to the integrity of the person and health of women and girls. Operationally, DEO works through three main Offices, including UNAR (below). Also the Observatory against Pedophilia and Child Pornography is at DEO. More recently, DEO adopted the new Extraordinary National Action Plan on Violence Against Women, and the first National Action Plan against Trafficking in Human Beings.

207. At the Presidency of the Council of Ministers, within the above Department (DEO), UNAR (standing in Italian for, National Office Against Racial Discrimination) is entrusted with the promotion of equality and the removal of all forms of discrimination, including multiple and intersecting forms of discriminations (Article 7 of Legislative Decree No. 215/2003), in accordance with EU Directives 2000/43/EC and 2000/78/EC.

208. In terms of activities, mention has to be made of the following: the "National week against racism"; capacity-building; monitoring; and data-collection exercises, besides supporting other relevant Institutions and promoting human rights education courses for law enforcement agencies, jointly with OSCAD.

209. Further, UNAR is the National Contact Point for the National Strategy on Roma Inclusion, in accordance with European Commission's Communication No. 173/2011. It also adopted the First National Strategy on LGBT people's rights, 2013-2015. Finally, it recently adopted the Action Plan against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

210. As for the National Roma Inclusion Strategy, 2012-2020, it focuses on the EU Priorities (Housing, Labour, Education, Health). Moreover, Italy decided to add gender perspective, non-discrimination and a human rights-based approach as crosscutting principles. Since its adoption, increasing attention has been paid to Roma women and girls as "agents for change".

211. In 2012, Italy joined the CoE programme "Combating discrimination on the grounds of sexual orientation and gender identity", with UNAR acting as the National Focal Point tasked with the development of the LGBT National Strategy. From a thematic standpoint, labor and employment sectors are specifically covered. Attention is also paid to the other major areas of concern, such as education (integration, overcoming stereotypes and anti-

[40] http://www2.ohchr.org/english/bodies/HRTD/docs/HCReportTBStrengthening.pdf

[41] The MFAIC of Italy submitted to the EC, the "Foundations of a National Action Plan on BHR", in late December 2013.

bullying), safety and prisons, communication and media. Relevant awareness raising and training – aimed at senior officers from schools, job Centers, law enforcement entities – are carried out through national seminars and pilot-projects.

212. As for the National Plan of Action Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (approved in August 2015), in terms of target group and scope, it covers both foreign citizens who live in Italy and Italian citizens of foreign origin, including those belonging to religious and ethnic and linguistic minorities. From a substantial standpoint, it includes eight thematic areas: Work and employment; Housing; Education; Health; Contacts with Public Administration; Law enforcement; Sport; Media and Communication.

213. Unlike Gender Equality Councilors (See paragraph 157 below), UNAR is not authorized to take legal action. However, it provides legal support to those NGOs with *locus standi* and admitted to its Register. In this regard, UNAR systematically issues opinions to victims and Associations besides constantly keeping up-to-date the relevant list of Associations, in accordance with Art.5 of Legislative Decree No. 215/2003. It now lists over 380 Associations.

214. As for UNAR Contact Centre, most cases (78%) reported in 2015 with regard to Roma referred to hate speech online/Mass Media.[42] UNAR works with various stakeholders, to raise awareness, especially among local Authorities. More recently, in January 2016, UNAR launched the Observatory on the Media and the Internet, to comprehensively monitor cases of hate speech, including online.

215. The Observatory for Security Against Acts of Discrimination (**OSCAD**) was established in 2010, at the Ministry of the Interior, to prevent and repress "hate crimes". **OSCAD** is entrusted with: overcoming under-reporting and encouraging the emergence of discriminatory offences; activating Police and *Carabinieri* operations in the field; intensifying exchanges of investigative information; training and exchanging of best practices, also through INTERPOL.

216. Additionally, mention has to be made, among others, of the following:

(a) The National Observatory on the Situation of Persons with Disabilities (http://www.osservatoriodisabilita.it/index.php?lang=en);

(b) The National Authority on Childhood (http://www.garanteinfanzia.org);

(c) The National Data Protection Authority (http://www.garanteinfanzia.org);

(d) The National Communications Authority (http://www.agcom.it);

(e) The National Authority Against Corruption (http://www.anticorruzione.it/portal/public/classic/);

(f) The National Authority for the Protection of Detainees and Prisoners (https://www.giustizia.it/giustizia/it/mg_3_8_16.wp?tab=w).

[42] According to UNAR's yearly-collected data (2013), about 70% of in-bound phone calls were considered as discriminatory acts and conducts. A decrease has been recorded with regard to institutional discrimination (i.e. from public services, 7.7%), the access to work or housing (7.5% and 5.1%). Specific attention has been paid to those 139 cases against Roma and Sinti. Discrimination resulted to be mainly in northern Italy, with 55.3%. Locally, Latium scored the highest percentage with 22.1% (156 reports in the Municipality of Rome). Most of the victims are Italians (26.5%), followed by Moroccans and Romanians (8.5% for both nationalities) and by nationals from other 38 more Countries. The complaints came directly from victims (29.2%), from witnesses (19.5%), and from Associations on behalf of victims (10.2%).

217. The Councilor for Gender Equality works at the national, regional and provincial levels. She undertakes initiatives to ensure respect for non-discrimination and promotion of equal opportunities at workplace, and promotes and monitors gender discrimination cases (http://www.lavoro.gov.it/ConsiglieraNazionale/Pages/default.aspx).

218. The Department for Family Policies is responsible, inter alia, for the promotion and coordination of relevant Government action, aimed at ensuring the implementation of family policies and supporting both maternity and paternity. The Department promotes, encourages, and finances reconciliation-related measures; and works through the Observatory on Childhood and Adolescence, and the Observatory on Family (http://www.politichefamiglia.it).

219. Advisory Committee for Religious Freedom – Established in 1997, it has several tasks, such as research and advice.

220. UNESCO Italian Committee – Established in 1950, it promotes UNESCO activities, nationally.

Bills on Human Rights currently under discussion

221. From a legislative standpoint, on February 10, 2015, the Government approved a Bill with the aim of establishing – other than the Juvenile Courts – ad hoc specialized judicial Sections for "the individual and the families (Per la persona e la famiglia)", to be managed by special judicial Authorities with the support of those experts working within the Juvenile Courts.

222. An additional relevant Bill before the Parliament refers to: compulsory family mediation (AS 957) – with the further objective of supporting the education of women and men to parenthood.

223. Pending before the Parliament are the draft pieces of legislation on the introduction of the crime of torture in the ordinary criminal code (hereinafter, CC): A.C. 2769; A.C.2168; A.C. 1801; A.C. 1499; A.S. 874; A. S. 849; A.C. 979; A.S.601; A.S. 395; A.S. 388; A.S. 362; A.C. 588; A.S. 10; A.C.276; A.C.189; Bill 2798/C.[43]

224. Additional measures of relevance in the criminal proceeding law sector are as follows: Act No. 47/2015 (to further reduce the resort to precautionary detention measures); Act No. 28/2015 (in case of minor offences); draft laws 2798/C, 631-B/C (to increase the use of non-custodial measures before the imposition of sentence); and to improve the efficiency of the judiciary in the penal sector, Act No. 67/2014 (envisaging *inter alia* probation, the clustering of minor offences and their transformation into an administrative sanction); Law-Decree No. 146/2013 on extension of the electronic tagging to those under house arrest; Legislative Decree No. 101/2014, transposing Directive 2012/13/EU, on the right to be informed in the criminal proceedings, which amends the Criminal Procedural Code by envisaging, as a general rule, the submission, in writing, of a list of rights to which s/he is entitled.[44]

[43] Additional measures to prevent forms of cruel, inhuman or degrading treatment of persons in detention have been introduced by: Law-Decree No. 78/2013, converted into Act No. 94/2013; Law-Decree No. 146/2013, converted into Act No. 10/2014; and Law-Decree No. 92/2014, converted into Act No. 117/2015.

[44] As for the civil proceeding law sector, mention has to be made of: Law-Decree No. 90/2014, converted into Act No. 114/2014; Law-Decree No. 132/2014, converted into Act No. 162/2014; and Law-Decree 69/2013, converted into Act 98/2013. The above pieces of legislation mainly aim to reduce the excessive duration of proceedings and introducing and strengthening ICT in the relevant proceedings.

225. In terms of novelties, mention has to be made of the so-called Costa Bill (A.C.925-B), currently before the Senate and meant to limit the use of criminal sanctions for defamation and abolish imprisonment.[45]

226. Furthermore, the Italian Parliament is working on the transposition of EU Council Framework Decision 2008/913/JHA by introducing further offences such as publicly condoning, denying or grossly trivializing crimes of genocide, crimes against humanity and war crimes.

227. In terms of legislation on the protection of Roma, various relevant draft laws are pending before the Parliament: draft Law No. 2858, pursuant to Article 71, para.2, of the Constitution, on "Provisions for the protection and equal opportunities of Roma and Sinti as a historical-linguistic minority"; Bill No. 1748/2015, on "Amendments to Act No. 211/2000, to extend the Remembrance Day to Roma and Sinti"; Bill No. 51 to ratify the European Charter on Regional or Minorities Languages.

228. Finally, on February 25, 2016, the Senate approved the "New Unified Text concerning Bills No. 14, 197, 314, 909, 1211, 1231, 1316, 1360, 1745, and 1763", which introduces the institute of civil union partnerships for same sex couples. It is now pending before the Chamber of Deputies, for final approval.

Legislation on women's rights (recently entered into force)

229. In terms of relevant novelties, including special temporary measures, mention has to be made of the following:

- Legislative Decree No. 80/2015 on "Measures for reconciliation between care, work and family life", including *inter alia* a special paid leave for working women, victims of violence; Act No. 117/2014, not allowing house arrest and alternative measures to detention for crimes, such as family maltreatment and stalking; Legislative Decree No. 24/2014 establishing "The implementation of Directive 2011/36/EU, on preventing and combating trafficking in human beings and protecting its victims"; Legislative Decree No. 7/2014 establishing the Joint Committee on Gender Perspective and intervening on family reunification and protection of the parenthood; Law-Decree No. 93/2013 converted into Act No. 119/2013 on "Urgent provisions on safety and for the fight against gender-based violence, as well as on civil protection and compulsory administration of provinces"; Decree No. 76/2013, providing incentives for companies recruiting young people and focusing on the re-entry to the labor market; Act No. 92/2012, Decree No. 179/2012 (adopted as Act No. 221/2012) and Act No. 228/2012 (2013 Stability Law), constituting the main Italian laws for the promotion of labor market participation. Decree No. 179/2012 established financial contributions for women to purchase educational services for their children; Act No. 62/2011 requiring that from January 1, 2014, the Penitentiary Administration shall open low-security penal establishments for both accused persons who need to be held in custody and finally-sentenced persons of both genders, having children up to the age of 6.
- In terms of temporary special measures, following amendments to Article 51 of the Constitution, Italy adopted: Act No. 65/2014 on the European Parliament election and guarantees for women's representation, including transitional provisions for the

[45] As for the access to information, new transparency-related obligations have been introduced. By Legislative Decree No. 33/2013, the right of access to information is placed at the core of the administrative system. Article 5 introduces "Civic access," namely the right to request a PA office to promptly publish online, any documents; failure to comply with this request may trigger sanctions also for senior officers, including for damage to Administration's image.

2014 European Parliament elections (when voting for up to three candidates, the choice must refer to candidates of both sexes otherwise the third preference will be annulled; lists must equally represent men and women; and representatives of both sexes have to be placed at the top of each list of candidates); Act No. 215/2012 promoting gender (re-)balance in the representation in the regional and local Councils and Governments; and Presidential Decree No. 251/2012 on equal access to the Board of State-owned companies. By Act 120/2011, the governing bodies of publicly-listed Companies, from 12 August 2012 onwards, must renew their Boards by reserving a quota of at least one-fifth to the less represented gender.

International cooperation

230. Italy adherence to the 0.7 GDP goal within the United Nations is essential. The context of the global financial and economic crisis, with the consequent need to contain public expenditure, has led to downsizing the funding of ODA in recent years. In 2008 Italian ODA reached 0.22% of GDP, fluctuating to 0.14% of GDP in 2012. However, in 2013 the Italian Government committed itself to ensure a 10% increase of ODA, with the goal to gradually align our ODA to international standards. According to this commitment to growth, we expect to reach 0.28/0.31% of GDP, by 2017.

231. Within this framework, by Act No. 125/2014, the new architecture for development cooperation now includes: the Ministry of Foreign Affairs and International cooperation – with a specific mandate for the Vice-Minister for Foreign Affairs; the Inter-ministerial Committee for Development Cooperation; and the National Agency for Development Cooperation. The latter has become operational, on January 1, 2016.

232. Furthermore, the above Act also defines the objectives for development cooperation, including: eradication of poverty; reduction of inequalities and protection of human rights, especially gender equality; conflict prevention and resolution; and support for peace processes. Further, it envisages the adoption of a three-year guiding document, to be approved by the Council of Ministers. It also sets out a National Conference, including private and public sectors, for consultation purposes.

C. Framework within which human rights are promoted at the national level

233. As for the budget for the protection of human rights, Italy has allocated, between 2010-2014, considerable financial and human resources, which amount to over € 17,3 billion. In this regard, mention has to be made of the following (not exhaustive list):

Immigration and integration policies € 284.000.000	*Special Fund: € 190 million; "Mare Nostrum": € 70 million as of 13/06/14; Piedmont Region € 6 million per year for healthcare*
Fight against discrimination in all its forms € 550.000.000	European Integration, 2013: € 219.059.138,94; New Asylum, Migration and Integration Fund, 2014/20: € 310 million; Operational National Programme (PON) for Safety, aimed at welcoming asylum seekers and refugees, 2007/13: € 10.000.000,00
Roma, Sinti, and Camminanti € 19.830.000	Awareness campaigns: € 930.000,00; Data collection: € 750.000,00; Social inclusion, training, education and health: € 18.150.00,00
Women € 75.500.000	*Supporting female entrepreneurship: € 20 million; work-life balance, 2010/12: € 40 million; contrast to sexual violence and gender violence: € 13 million; Veneto Region, 2013: € 380.000; Piedmont Region prevention of FGM: € 205.000 yearly*
Children € 16.052.000,00	Students with disabilities: € 4 billion annually since 2010; ICT project on disabilities: € 1.7 million; Regional Support Centres (CTS) € 1.159.222,00 and € 400.000,00 for training of teachers; 2011/14

Women *€ 75,500,000*	*Supporting female entrepreneurship: € 20 million; work-life balance: 2010-12 € 40 million; contrast to sexual violence and gender violence: € 15 million; Veneto Region, 2013: € 500,000; Piedmont Region prevention of FGM: € 205,000 yearly*
	school in hospital and home education: € 8,000,000.00; 2013/14 peer education in multicultural contexts: € 300,000.00; UAMs in 2014 € 40 million; allowance to families with at least three underage children 2013/14: € 41.1 million
Minorities € 15,500,000.00	Supporting minorities languages, 2013/14: € 15,500,000.00
Combating trafficking in human beings € 8,450,000.00	Supporting victims of trafficking, 2012: € 8,000,000; Umbria Region, 2012/14: € 450,000.00
Economic rights and poverty reduction € 257,000,000.00	Social card: € 257 million for 2012-2016
Environmental Pollution € 50,500,000.00	Taranto and Statte: € 50,450,000.00 for 2014-2015
Training and human resources 2010/14: over 25,000.00	2012-2014: 8,700 Carabinieri, Police officers and Inter-Forces personnel; 2010-2013: 16,800

234. In terms of promotion of human rights, in addition to the above draft pieces of legislation (paragraphs 149, 161-168 above), several Human Rights Education and Training (HRET) activities have been developed over the years at all levels, as shown by Italy's support for the International Platform on HRE, culminating in the relevant UN Declaration on Human Rights Education and Training (UN Doc.A/RES/66/137) and all subsequent initiatives, the latter of which was adopted in March 2016, during UN Human Rights Council (HRC 31).[40]

235. More specifically, several Administrations, especially Armed Forces, State Police, Carabinieri, *Guardia di Finanza*, and Penitentiary Police, provide specific training and/or investigative Units, on violence against women and children.

236. As a way of example, the Ministry of Justice-Penitentiary Administration signed, inter alia, a MoU with the National Children's Rights Ombudsman in March 2014.

237. With regard to refresher programs for the judiciary, the School of the Superior Council of the Judiciary (CSM) provides ad hoc courses. In addition to courses, since June 2013 it particularly focuses on the assessment of evidence and investigation protocols for crimes against vulnerable groups, with a specific focus on stalking. The large participation of judges ensures that programs are kept abreast of current developments (in addition to courses focused on international human rights law).

238. Training for specialized groups and the coordination of activities within judicial offices, in particular for the Prosecutor's Offices, are designed to make judicial interventions relating to cases of gender-based violence (GBV), as qualified as possible. Similarly, training on "vulnerable groups" allows for a continuous exchange of information about violence-related crimes. There is also an initiative to draft MoUs, to improve networking and contact between all judicial bodies and care facilities (e.g. social services, NGOs, care Centers, including anti-violence Centres and hospitals). These MoUs – albeit within the limited scope of this kind of agreement – are of great relevance, precisely for the training of all operators as they provide an important opportunity for discussion on key issues and overall for the analysis of concrete solutions to combat GBV.

[40] See UN Human Rights Council Resolution A/HRC/31/L.21.

239. More specifically, since long time VAW has been addressed by the State Police through special Units carrying out prevention and prosecution-related activities, both at the central and local levels. The State Police Special Units attend ad hoc training courses focusing on victims and the more effective ways to prevent recurrence of violence and emergence of violence. Therefore, mention has to be made of the following: training on relevant "Investigation Techniques" are intended for local investigative units (in Italian, *Squadre Mobili*); VAW, including domestic violence, stalking, and fight against discriminatory acts are included in the yearly refresher courses; the MoU on "Training for law enforcement to standardize their approach to gender-based violence victims", was signed, on May 30, 2011 by DEO and the Ministry of the Interior; several seminars and courses organized on "How to approach victims of sexual violence" for senior officers; training for trainers formulas; special training sections also for cadet officers; training on good practices; and the "Mu.T.A.Vi. – Multimedia Tools Against Violence" project. Training on GBV is also provided by the COESPU of the Carabinieri Corps in Vicenza, especially for the staff to be deployed abroad (See Italian National Action Plan in accordance with UNSCR 1325(2000), 2014-2016, at www.cidu.esteri.it).

240. The effectiveness of these initiatives is enhanced by the involvement of a wide network of institutional and private actors. This form of cooperation has been strengthened in particular by the obligation to inform victims about local Anti-Violence Centres (obligation extended by Act No. 119/2013 to crimes, such as domestic violence, slavery, trafficking in human beings, child prostitution, child pornography, sexual-related crimes).

241. To fight against stereotypes, several actions have been put in place. Since 2009, DEO organizes the "Week Against Violence and Discrimination", a nation wide initiative established by a MoU with the Ministry of Education (MIUR). During the Week, schools organize awareness-raising and training on the prevention of physical and psychological VAW and of violence based on all forms of discrimination. Since 2004 DEO-UNAR promotes the Week against Racism, which in the March 2015 edition was jointly launched with ANCI and involved 700 Municipalities. Furthermore, "the Good School Act", adopted in September 2015, envisages specific gender equality modules in the school curricula. Training in the field of IHRL and IHL, particularly on THB, is also provided to the staff of the Ministry of Foreign Affairs and International Cooperation, including young diplomats during their probation period and to consular personnel.

242. All the above-mentioned National Action Plans include specific sections devoted to overall awareness-raising, information and training activities, including the media sector. Within this framework, mention has to be made of the Rome Charter, an ethical code providing guidelines for correct information on issues such as migration, right of asylum, and trafficking in human beings.

D. Reporting process at the national level

243. In addition to information already provided under paragraph 150, CIDU is in charge of follow-up activities relating to the UPR and to the Concluding Observations/Comments from UN Human Rights Treaty Bodies. CIDU provides advice in this respect and sees to the translation in Italian and dissemination of relevant documents (i.e. Concluding Observations). CIDU also organizes and/or participates in seminars, workshops and conferences on various human rights issues (www.cidu.esteri.it).

E. Other related human rights information

244. In terms of follow-up to international Conferences, please refer to the information provided under paragraphs 103 et ff.

III. Information on non-discrimination and equality and effective remedies

Introduction

245. The basic rule guiding modern democracies in the protection of human rights is the effective implementation of the principles of equality and non-discrimination. It is, indeed, one of the main pillars of our constitutional code, upon which the domestic legislative system is based: "All citizens have equal social status and are equal before the law, regardless of sex, race, language, religion, political opinion, and personal or social conditions. It is the duty of the republic to remove all economic and social obstacles that, by limiting the freedom and equality of citizens, prevent full individual development and the participation of all workers in the political, economic, and social organization of the country (Article 3)". As already pointed out, the constitutional principle of equality impacts on all branches of power. Institutionally, from a constitutional standpoint, the Constitutional Court and the judiciary in general play a specific role, while UNAR is of particular relevance at the administrative level.

A. The protection of equality and of non-discrimination

246. In this regard, the following legislative provisions are to be mentioned:[47]

247. Act No. 654/1975 (the so-called Reale Act) by which Italy ratified ICERD. Article 3 introduces in the domestic legal system various relevant offences, including incitement to hatred. This Act has been later integrated/amended by Act No. 205/1993 (the so-called "Mancino Act", as subsequently amended by Article 13 of Act No. 85/2006).

248. Act No. 654 of 13 October 1975 (known as the "Reale Act"), as amended by Act No. 205 of 25 June 1993 (known as the "Mancino Act") and Act No. 85 of 24 February 2006, criminalizes: a) incitement to racial discrimination; b) racial discrimination; c) incitement to racial violence; d) racial violence; e) the promotion of ideas based on racial superiority or ethnic or racist hatred; and f) the setting up or running of, participation in or support to any organization, association, movement or group whose purpose is the instigation of racial discrimination or violence. The Mancino Act also prohibits the public display of symbols and emblems of such organizations, and makes racist bias an aggravating circumstance in connection with any offence. Specifically, the racial ground is of relevance as an aggravating circumstance of any other offence in accordance with Article 3 of the "Mancino Act".

249. The main civil and administrative law provisions against racial discrimination are found in: Act No. 300/1970 on employment; Legislative Decree No. 286/1998 on immigration (known as the "Turco-Napolitano Act"); and Legislative Decrees Nos. 215 and 216/2003 transposing Directives 2000/43/EC and 2000/78/EC *[sic]* into the Italian legislative system.

250. Within this framework, Article 18-bis of Act No. 482/99 with regard to historic linguistic minorities (See paragraph 195 et ff. below) broadens the scope of Article 3 of the

[47] Excerpt from "National activity – Italy report on anti-discrimination and diversity training" by ARCI and UNAR, 8, available at http://ec.europa.eu/justice/discrimination/files/antidiscrimination_training_italy_en.pdf.

"Mancino Act", to also specifically prevent and repress intolerance and violence against historic linguistic minorities.

251. By Legislative Decrees No. 215-216/2003,[45] Italy transposed Directives 2000/43/EU and 2000/78/EU, with the aim of: prohibiting all forms of discrimination based on race or ethnic origin, in any area or sector, both private and public; regulating the prohibition of discrimination on grounds of religion or belief, disability, age or sexual orientation, with regard to employment and occupation.

252. More specifically, both the definitions of direct discrimination and indirect discrimination conform to that of Directive 2000/43/EU. "The definition of harassment forward a complex group of behaviors performed with the aim to violate the personal dignity, to create an intimidating, hostile, degrading, offensive and humiliating climate. So it is a particular type of racial discrimination, not performed on a level of unequal treatment (for example in the tools that regulate a certain type of access to employment or to allocation of housing), but is performed in all those explicitly xenophobic behaviors that violate the personal dignity."[46]

253. With regard to racism and intolerance during sports events, Italian legislation has been progressively strengthened by the introduction of criminal and administrative sanctions for those responsible of incitement to hatred. The legislation in force (Act No. 205/1993) provides for repressive measures to be adopted when discriminatory conducts are perpetrated during sport events and sport competitions (and is completed by the Sport Justice Code, which states that any discriminatory behavior must be punished when it is recognized as direct or indirect offence, denigration or insult motivated by race, color, religion, language, sex, nationality, territorial or ethnic origin, or when it constitutes a means of ideological propaganda prohibited by law, or it supports discriminatory behaviors).[47]

254. Relevant new provisions have been introduced by the conversion into law of Law-Decree No. 119/2014, on "Urgent action to fight unlawful and violent phenomena during sport events", which envisaged the extension of the applicability of the ban on the access to sporting venues, the so-called DASPO – Exclusion order (Stadium Ban).

255. The Italian legal system[48] also includes specific provisions to combat racism, racist and xenophobic speech, and all actions directed to spread ideas founded on racial or ethnic hatred and the incitement to commit acts of violence on racial, ethnic or religious grounds.

[45] By this Decree, the national regulations were provided with important regulatory and administrative provisions ensuring the implementation of effective instruments of protection against all forms of discrimination on grounds of race or ethnic origin, according to a comprehensive approach based on the principle of equal treatment in the public and private sectors, with respect to access to employment, occupation, guidance and vocational training, membership of workers' or employers' organizations, social protection, healthcare, social benefits, education, goods and services, judicial protection of victims by civil actions against discrimination, including presumptive proof in favor of the victim and awarding compensation for damage.

[46] http://ec.europa.eu/justice/discrimination/files/antidiscrimination_training_italy_en.pdf.

[47] The football player, the football team manager, the associates and the partners are thus sanctioned. The football clubs are responsible for bringing in or for the exhibition of pictures, slogans, symbols, emblems and similar objects containing racial expressions and for discriminatory manifestations in sports.

[48] The Italian Parliament is working on the transposition of EU Council Framework Decision 2008/913/JHA into Italian legislation, by which to introduce further offences, such as publicly condoning, denying or grossly trivializing crimes of genocide, crimes against humanity and war crimes (as enshrined in Articles 6, 7 and 8 of the ICC Statute), to be considered as racist and xenophobic forms and expressions.

As mentioned above, the legislation in force punishes the establishment of organizations, associations, movements or groups that have, among their purposes, the incitement to discrimination or to violence motivated by racial, ethnic or religious motivation. It also provides for a special aggravating circumstance for all crimes committed on the ground of discrimination or racial hatred.

B. Institutional and judicial protection of equality and non-discrimination

256. In the light of a constitutional principle, criminal action by the public prosecutor is mandatory (Article 112 of the Constitution). Therefore, prosecutors are able to investigate any alleged discriminatory motive associated with a crime, irrespective of its mention in the report drawn up by Police authorities.

257. From a judicial standpoint, with due respect to and given the judicial safeguards set forth by the Constitution and relevant legislation, should new events emerge, the Court can admit additional evidence in accordance with Articles 516, 517, 518 of the code of criminal procedure. In general terms, the Court can always decide a more severe penalty in light of new circumstances or specific evidence. Should the Court find new facts – compared to those already under trial –, it has to mandate the public attorney to proceed separately, unless the attorney and the defendant decide to do otherwise (Article 518).

258. "A victim of discrimination can thus resort to: criminal procedures (if s/he has suffered from offences of criminal relevance); administrative court procedures (e.g. complaints against action by an official or state/municipal institution); and civil procedures (e.g. moral damage).[37] Additionally, the victim can resort to UNAR anti-discrimination tools."[38]

259. Within this framework, mention has to be made also of:

(a) Referral to the European Court of Justice – When there is a disputed issue of EU law and the judge is uncertain on how to interpret a provision of EU law, a referral can be made by a national court to the European Court of Justice in Luxembourg under Article 234 of the EU Treaty. The parties to the proceedings can ask the national judge to grant a request for such a referral, or the judge can decide upon his/her own motion, to refer the case. Any court may make a referral, but only the national court of last instance is obliged to do so. The European Court is the only body that can give a definitive interpretation of the terms used in the Directives.

(b) Petition to the European Parliament – The Committee on Petitions of the European Parliament can receive petitions from Citizens of the Union who wish the

[37] Civil action against discrimination is admissible in accordance with Article 44 of Legislative Decree No. 286/1998.

[38] The Italian Presidency of the Council of the European Union (through UNAR) and the European Commission organized a Joint High-Level Event on Non-Discrimination, Diversity and Equality in Rome, on 6-7 November 2014, entitled "Shaping the Future of Equality Policies in the EU". The event brought together 250 high-level delegates (governments, social partners, businesses, civil society, media, academics and independent experts) from EU and non-EU countries. There were five panel sessions during the event, including a Ministerial panel and a session dedicated to discussing the initiative for the High Level Group on Non-Discrimination, Equality and Diversity to be set up by the European Commission in 2015. The following themes were addressed: equality and non-discrimination in economic recovery, new directions for diversity management, new possibilities in valuing equality and diversity – towards a cultural change and future perspectives on access to justice. Accordingly, it was adopted the so-called Declaration of Rome.

Committee to investigate about their rights under European Union law which are not being properly respected.

(c) Alerting the European Commission to discriminatory administrative practices – It is also possible to write directly to the Commission. Additional information are available at: http://ec.europa.eu/italia/ue_italia/ue_in_italia[34]".

C. Miscellaneous

260. As for the protection of historic linguistic minorities, they are protected in accordance with Article 6 of the Constitution ("The Republic safeguards linguistic minorities by means of appropriate measures") and Act No. 482/1999 on the protection of historical linguistic minorities.

261. More specifically, an important stage in the development of our legal system was achieved by means of Act No. 482/1999, entitled "Provisions to Protect the Historic Linguistic Minorities". This Law, though upholding the principle of national unity, recognizes the multiplicity of the linguistic and cultural forms of expression in our Country and at the same time it attaches importance to the role of autonomy in terms of administrative de-centralization by allocating to local Authorities fundamental tasks in the implementation of relevant provisions. Twelve are the historic linguistic minorities officially recognized by the Italian state: French, Occitan, Franco-Provençal, German, Ladin, Friulian, Slovene, Sardinian, Catalan, Arberesh (a variant of contemporary Albanian), Greek and Croatian.

262. Act No. 38/2001, entitled "Provisions in Favor of the Slovenian Minority of Friuli Venezia Giulia" supplemented the above legal framework. The aim of this law is to ensure the consistency of the protective measures in favor of the Slovenian minority living in the Region. Previously a particular system of protection stemmed from international agreements concluded after the Second World War, namely Article 8 of the Treaty of Osimo, concluded with former Yugoslavia and ratified by means of Law No. 73/1977. In particular Article 8 confirmed the protective provisions in favor of the Slovenian minority envisaged in the special Statute attached to the London Memorandum of 5 October 1954.

263. Furthermore, it is worth mentioning that – in line with the general principles set at the European and international levels – in almost all Regions where historic minority language speaking communities live, protective provisions have been issued in the framework of the responsibilities entrusted to the Regions by the Constitution.

264. In order to implement Articles 9 and 15 of Act No. 82/1999, entitled "Provisions for the Protection of Historic Linguistic Minorities" and Article 8 of Act No. 38/2001, entitled "Provisions for the Protection of the Slovenian Minority in the Friuli Venezia Giulia Region", the regional Authorities promote the use of the minority languages in public offices and aim at guaranteeing the oral and written use of protected languages in the offices of the Public Administrations, by issuing specific grants.

265. To promote the use of Slovenian in the public sphere, various provincial and municipal public Administrations have started language courses of Slovenian, for public employees. By using the funds envisaged by Act No. 38/2001, they have employed both temporary and permanent staff with knowledge of Slovenian for translations and they also started the activity of helpdesks and/or offices for the Slovenian minority. Further, the private bodies holding a public service concession have adopted specific initiatives. Since

[34] http://ec.europa.eu/justice/discrimination/files/antidiscrimination_training_italy_en.pdf

2001, the use of Slovenian has spread considerably in elected bodies; and a number of meeting rooms have been provided with simultaneous interpretation equipment. Despite the presence of the relevant simultaneous interpretation equipment, some difficulties have been encountered in the Municipality of Gorizia, where the use of Slovenian is not yet possible within the Municipal Council.

266. The number of bodies that apply for the funding of projects involving linguistic helpdesks is constant in time, but only a few decide to share the service by setting up a network and optimizing resources and experiences. The One-Stop-Shop for Slovenians has been set up at the Government Commissioner's Office – Prefecture of Trieste, thereby implementing Article 8 (4) of Act No. 38/2001, which makes it possible for public Administrations to rely on a single office, to enable Slovenian citizens to actually exercise their right to the use of their own language. The one-stop-shop was opened by the Government Commissioner with funds of the Presidency of the Council of Ministers; it was inaugurated in December 2007 and participating bodies include the following: Provincial Police Headquarters, Regional Education Authority, Regional Agency of Revenue and Customs, INPS (National Institute of Social Security) and INAIL (National Institute of Insurance against Accidents occurring at the Workplace).

267. Projects to support the provincial offices of State Administrations have been carried out with funds envisaged by Article 9 of Act No. 482/1999, to guarantee the full use of Slovenian to citizens who apply for it. This initiative meets a two-fold need – drawing up a complete set of bilingual forms for the members of the Slovenian minority and train the staff of involved bodies by means of language courses to enable them to interact with persons wishing to exercise their right to use Slovenian in their relations with Public Offices.

268. The activities of the regional Authority are also important, as it allocates at a local level funds to projects of relevant Public Administrations for the implementation of the right to the public use of recognized minority languages. Although differences in procedures do exist as a result of the application of the provisions of Acts No. 482/1999 and 38/2001 respectively, the types of projects eligible for funding include the following: establishment of linguistic helpdesks for relations with citizens that use the minority language, training courses in the minority language for staff of the involved administrations, translation of official deeds and documents of the Public Administration and interpretation in connection with the activities of joint bodies, manufacturing of state and institutional signs, design of institutional websites using minority languages, design of institutional websites, publication of promotional and dissemination material.

269. Many initiatives in our Country have strengthened the protection and promotion of the rights of linguistic minorities. The regional legislation aimed at the enhancement of local languages and cultures has also considerably developed. The Department of Regional Affairs of the Presidency of the Council of Ministers endorsed the proposal of the Technical Advisory Committee for the Protection of Historic Linguistic Minorities and as a result it allocated the necessary resources to set up or continue the activities of linguistic helpdesks, which are the real point of contact between the minority language speaking population and the Public Administration.

270. Despite the economic crisis and the related budget cuts, the allocations in favor of linguistic minorities have progressively increased, in relation to the support to the activities envisaged by Acts No. 482/1999 and 38/2001 (the latter in favor of the Slovenian linguistic minority), respectively.

271. Account must be taken of the fact that in Regions like Valle d'Aosta/Vallée d'Aoste, Friuli Venezia Giulia, Sardinia and Trentino Alto Adige/Südtyrol exist ad hoc legislation

instruments that considerably supplement state funds for linguistic minorities and that favor an in-depth promotion of the languages and cultures of the concerned minorities.[55]

272. In Italy, there are about 160,000 Roma.[56] As indicated in the relevant National Roma Inclusion Strategy, 2012-2020, their heterogeneous *status civitatis* does not allow any longer their treatment within the wider framework of immigration-related policies.[57] More importantly, the Strategy has overcome the "nomad" connotation.

273. Operationally, UNAR was designated in late 2011 as the National Contact Point.[58] Under the political responsibility of the then Minister for Integration, UNAR elaborated the Strategy with an inter-ministerial, inclusive and participatory approach. The Strategy focuses on the EU Priorities (Housing, Labor, Education, Health), but Italy decided to introduce a gender perspective, a human rights-based approach and HRE, as crosscutting principles and activities.

274. To comply with relevant standards, the governance of this Strategy includes national-thematic and regional Working Groups, and local Plans of social inclusion. Since December 2012, the WGs have been gradually established. In January 2013, the national WG on Roma Legal Status has been set up and works on the issue of Roma and Sinti without any ID cards and who cannot be connected any longer to their country of origin.[59] Moreover, a specific Task Force has been set up with ISTAT and ANCI, on data-collection and possible mapping exercises.[60]

275. UNAR also promotes awareness-raising and training activities through several initiatives, such as Council of Europe's Romed2/Romact, CominRom, and the "DOSTA (*Basta!*) campaigns, as well as initiatives related to the remembrance of Porrajmos, the International Roma Day, and the week against racism. In terms of good practices, it is

[55] By Act No. 482/1999, the Ministry of the Interior periodically updates the list of Municipalities where linguistic minorities live besides considering for inclusion those other communities so requesting under the above Act. Further, mention has to be made of the various NGOs working for the protection of local linguistic minorities, such as CONFEMILI (the Federal Committee of Linguistic Minorities of Italy) that represents the Associations of the twelve recognized linguistic minorities. It carries out activities of coordination, guidance, advisory and planning, for both local Authorities and associations.

[56] Approximately half of them are Italians.

[57] Plus, the Constitutional Court stressed the equality between Italian citizens and Non Italian citizens in the enjoyment of basic human rights (Verdict 187/10), and that the solely criterion of citizenship cannot be reasonable in itself. In fact, when the Public Administration detects a need, this cannot be limited to the minimum stay duration criterion (Verdict 2/2013).

[58] In 2012, Italy joined the CoE Program "Combating discrimination on the grounds of sexual orientation and gender identity". DEO, through UNAR acting as the national focal is currently implementing "The National Strategy for the Prevention and Fight against Discriminations grounded on Sexual Orientation and Gender Identity, 2013-2015" which focuses on: education (integration, overcoming stereotypes and anti-bullying), safety and prisons, communication and media (Relevant awareness raising and training, envisaged for senior officers from schools, labor centres, law enforcement, is carried out through national seminars and pilot projects of a local level, as well as through an *ad hoc* web platform). UNAR also finalized recently the NAP Against Racism (approved in May 2015 by the Unified State-Regions Conference), in terms of target group and scope, it covers both foreign citizens who live in Italy and Italian citizens of foreign origin, including those belonging to religious and ethnic and linguistic minorities.

[59] Within this framework, on September 10, 2015, the Parliament passed legislation authorizing the ratification of the UN Convention on Reduction of Statelessness (1961).

[60] Please note that in line with Italian legislation on privacy, disaggregated data on ethnic or religious grounds cannot be collected.

worth mentioning "Italian ACCEDER"[49] to facilitate the access to the job market for Roma women and youngsters in the South of Italy; the joint project run with ANCI and ISTAT to identify relevant administrative sources and data-collection on housing; the project jointly run by UNAR, ANCI and Formez (the latter being a cooperation-inspired/aimed Agency among the various levels of Government departments), to promote the adoption of Local Social Inclusion Plans. Other projects are run by: the Ministry of Labor (especially those under Act No. 285/1997, for Roma family and school integration of young Roma students);[50] the Ministry of Health (that launched a sectorial Plan in May 2015); the Ministry of Education (also through, inter alia, an *ad hoc* project devoted to *Porrajmos*);[51] the Ministry of the Interior (inter alia, by coordinating the above Working Group on legal status); and DEO that, drawing on previous training experiences of Roma and Sinti mediators within the Romed project of the Council of Europe, has implemented a pilot-project on the "Promotion of a network of RSC cultural-linguistic mediators."

276. Law-Decree No. 69/2013, converted into Act No. 98/2013, aims at simplifying citizenship acquisition for those who have come of age and cannot prove their constant stay in the Italian territory for the past 18 years, due to administrative failures not directly caused by them but by negligence of their parents and/or birth register personnel. Article 33 envisages the mandatory use of IT programs by relevant State officers to make this proceeding faster and less expensive. In 2013, over 54% of the applications (101,712) went through positively. They were submitted mainly in Northern Italy (72.2%). Southern Italy and the Islands accounted for 34.2% and 27.2%, respectively.

277. As for the entry of Non-EU citizens in 2013, data relating to women indicate that the majority arrives for marriage or family reunification purposes. Since 2006 the residence permit in Italy is issued in the form of a smart card. Appeals can be lodged with the administrative judicial Authority against denial of residence permit.

278. In 2014, 136,905 migrants reached Lampedusa Island, of whom 10,000 unaccompanied minors. According to UNHCR, 170,000 migrants arrived in 2014, of whom 64,625 applied for asylum. In 2015 114,000 migrants arrived to Italy. Italy has increased its reception capacity. In the first six months of 2015, approx. 30,000 migrants applied for international protection.

279. In August 2013-September 2014, 67% of the applications submitted to the Territorial Commissions for the Recognition of International Protection were accepted. To ensure transparency, in all Commissions there is a UNHCR representative.

[49] Between 2013-2015, within the "ESF Governance and Systemic Actions, Convergence Objective, Axis B Employability", UNAR has developed a specific Action with regard to "positive models of vocational training, orientation and job inclusion", which falls within the specific Objective No. 2.3 of the National Strategy under reference, dedicated to job inclusion, with the aim of replicating the Spanish ACCEDER project. So far, 100 Roma have been positively involved, the majority of whom are women.

[50] Projects carried out by the Ministry of Labour in collaboration with the Ministry of Education, in accordance with Act 285/1997, within the broader project entitled "for the inclusion of Roma, Sinti and Camminanti children and adolescents", 13 municipalities have been involved, and specific debates and exchange of best practices took place with regard to two key work-streams: family involvement, especially focused on women and girls, and school reception.

[51] As for Roma and Sinti school dropping-out, the National WG gathered, for the first time, on February 11, 2013. A subsidiary WG has been set up and has launched a specific pilot-project for both students and teachers on Roma History/*Porrajmos*, non-discrimination, and human rights. Within awareness-raising of rights, culture and history framework, a website on *Porrajmos* mainly for the school system has been launched by the Shoah Foundation and Cattolica University in Milan.

280. If a decision on an application is not made on an individual basis within six months – period during which the applicant is cared for by the State – s/he will get a residence permit, allowing him/her to work. Italian legislation also provides humanitarian protection to individuals who may not qualify as refugees or are not entitled to subsidiary protection under the 1951 Convention and the European legislation but who cannot be repatriated for humanitarian reasons (a renewable one-year permit is granted as long as humanitarian motives are ascertained).

281. In 2013, women in rural areas amounted to 22 million; and 19.5% of the rural population, of which 50% are women, live in the so-called Least Developed Areas (LDA).

- In terms of rural workforce (16 million), women amount to 41%, of whom 18% in the LDA. Several initiatives are aimed at enhancing the participation and access of women to the farming sector (through i.e. "Leader approach", integrated projects, and training), including of a local nature, and also to reduce the digital divide.
    - According to the VI Agricultural Sector Census, there are 500,000 female farming enterprises, of which 58% in Southern Italy; the number of women in holder/leading/control positions has increased from 26% to 31%, in 1990-2010, especially in the South with Molise region reaching 39.4%.
- As for migrant women, they represent 29% of the total rural workforce (Source: INEA-CRA on INPS data of 2013), and 22% of the total female rural workforce.
    - Most migrant women are concentrated in five Regions: Emilia Romagna (17%), Apulia (12.4%); Calabria (11%), Sicily (8%); and Veneto (9%).
- The participation of women in new forms of governance has increased over the last decade, in particular within the framework of: Integrated Local Projects (PIL) and local Development Plans (PSL) as implemented by Local Action Groups (GAL), under the EU Initiative-Leader.
    - Specifically, women account for 70% of the workforce playing a primary role as project managers, trainers, and facilitators of new networks.
    - The Ministry of Agriculture and Associations such as "Donne in Campo", "Donne Impresa" and "Confagricoltura Donna" support farming activities by women.

282. By Act No. 81/2014, on March 31, 2015, Judicial Psychiatric Hospitals have been closed down.

283. Furthermore, within the current overall justice reform process, the Ministry of Justice has introduced measures designed to limit the use of remand in custody and to reduce prison overcrowding: Law Decree No. 211/2011; Act No. 94/2013; and, following ECtHR's ruling on the Torreggiani case, Act No. 10/2014 envisaging *inter alia* a "Special Early Release".

284. Act No. 117/2014 envisages compensation for damages: the oversight judge (*Giudice di sorveglianza*) can compensate the detainee with an-eight-Euro per diem, should inhuman and degrading living conditions in jail be ascertained. It also envisages: urgent measures to curb prison overcrowding, including compensation for damages in the event of non-compliance; access to specific hearings in the event of proceedings allegedly non-compliant with the Rules and Regulations of the Prison (Penitentiary Act) and causing "current and serious prejudice to the exercise of rights"; power to order fulfillment of the obligations to the Administration; easier modalities of access to home detention; additional limitations to remand in custody for adults. An ad hoc Working Group has been established at the Penitentiary Administration Department, to constantly monitor the respect of the number of inmates per cell, in light of the ECtHR's standards relating to size and occupancy of cells.

285. As of March 31, 2016, detainees amounted to 53,495,[64] of whom 17,920 foreigners[65] (As of June 30, 2015, 18,312 people were detained for drug-related crimes[66]).

286. In accordance with Act No. 199/2010, 18,771 people, of whom 5,744 foreigners, have exited detention facilities (as of March 31, 2016).[67]

[64] According to data collected in 2014, 800 were those detainees under semi-liberty regime, and persons benefitting from measures alternative to detention penalty amounted to 31,000.
[65] https://www.giustizia.it/giustizia/it/mg_1_14_1.wp?previousPage=mg_1_14&contentId=SST1225348.
[66] https://www.giustizia.it/giustizia/it/mg_1_14_1.wp?previousPage=mg_1_14&contentId=SST1164516.
[67] https://www.giustizia.it/giustizia/it/mg_1_14_1.wp?previousPage=mg_1_14&contentId=SST1225336.